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TRIAL

OF

JOHN HENDRICKSON, JR.,

FOR THE

MURDER OF HIS WIFE MARIA,

BY POISONING, 1571

AT BETHLEHEM, ALBANY COUNTY, N. Y.,

March 6th, 1853,

Tried in the Court of Oyer and Terminer, at Albany, N. Y., in
June and July, 1853.

REPORTED AND COMPILED

BY DAVID M. BARNES,
Of the Morning Express, and

W. S. HEVENOR,
Assistant District Attorney of Albany County.

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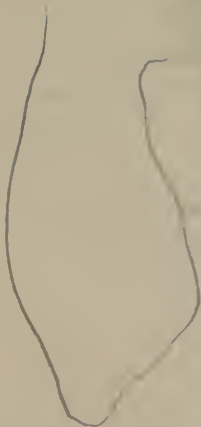
1853

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JOHN HENDRICKSON, JR.



MARIA HENDRICKSON, WIFE OF THE PRISONER.

INTRODUCTION.

IN presenting the following report of the trial of JOHN HENDRICKSON, Jr., the publishers offer no apology for doing so, because the intrinsic importance of the case, and the prominence it must ever occupy in the criminal annals of the country, will prove their sufficient justification.

The investigations in anatomy and chemistry will be recognized by scientific men as exceedingly valuable; and if not affording new light, at least presenting new reasons and inducements for research in these departments of the sciences.

We certainly deem the chemical investigations eminently valuable, as tending at once to excite inquiry, study and experiment, in regard to the analyses, quality and effects of the POISONOUS VEGETABLE ALKALOIDS, which thus far appear to have eluded that certainty of detection which has been obtained with reference to the metallic poisons. We therefore present the work in a substantial, enduring and authentic form.

Without any reference to the character or history of the condemned, the following pages are respectfully dedicated to the Legal, Medical and Chemical Professions generally; and especially to the presiding Judge, the eminent Counsel, Physicians and Chemists connected with the case, and by whom, in the course of our labors, we have been so much aided and encouraged.

TRIAL.

The report of this important trial, published in pamphlet form by DAVID M. BARNES, of the Express, and WINFIELD S. HEVENOR, of the District Attorney's office, is the only authentic one that can be published, and the only one which receives our sanction and approval.

ANDREW J. COLVIN, *District Attorney.*

L. S. CHATFIELD, *Attorney-General.*

WHEATON & HADLEY, *Counsel for Prisoner.*

T R I A L
OF
JOHN HENDRICKSON, JR.,

FOR THE
MURDER OF HIS WIFE MARIA,
ON THE SIXTH OF MARCH, 1853, AT BETHLEHEM, ALBANY CO.,
N. Y.

Court of Oyer and Terminer.

HON. RICHARD P. MARVIN, *Presiding Justice.*

HON. CORNELIUS VANDERZEE, }
HON. SAMUEL O. SCHOONMAKER, } *Associate Justices.*

For the Prosecution: { ANDREW J. COLVIN, *District Attorney*, and
L. S. CHATFIELD, *Attorney-General.*

For the Prisoner: { HENRY G. WHEATON, Esq., and
WILLIAM J. HADLEY, Esq.

FIRST DAY.

MONDAY, June 13, 1853.

The trial of John Hendrickson, Jr., for the murder of his wife Maria, at Bethlehem, on the 6th day of March last, was commenced in the above court this morning. From the character of the case and the number of witnesses, it is probable the trial will occupy two or three weeks.

District Attorney COLVIN, and Hon. L. S. CHATFIELD, Attorney-General, appeared in behalf of the People; HENRY G. WHEATON and WILLIAM J. HADLEY, counsel for the Prisoner.

The prisoner was brought into court by the Sheriff and placed in the dock, about 11 o'clock. He is a young man, about twenty-one years of age, upwards of five feet ten inches in height, well and heavily built, and of a generally fine appearance. His demeanor was calm and self-possessed.

The court room was filled with witnesses and spectators, and an intense interest is taken in the trial.

Among those present are Mrs. Van Dusen, the mother of the deceased, and other relatives ; also the father, mother, and family of the prisoner.

The court convened at 11 o'clock, and after the transaction of some preliminary business, proceeded to the empanneling of a jury.

The entire day was occupied in the attempt to empannel a jury, and in the course of the afternoon, the original panel being exhausted, the District Attorney applied to the court for an order requiring the Sheriff to summon twenty talesmen—only eight jurors having been sworn—to appear in court to-morrow morning at 9 o'clock.

Whereupon the court adjourned until 9 o'clock to-morrow (this) morning.

SECOND DAY.

TUESDAY MORNING, *June 14.*

At the opening of court, at 9 o'clock this morning, the talesmen who were summoned by the Sheriff last evening, were called, all of them answering, when the empanneling was again proceeded with.

At 11 A. M. the jury was completed, when James Van Loon, one of the jurors who had been sworn, was challenged by the people as being related to prisoner within the prohibited degree. After a lengthened argument by counsel, the court directed the said juror to stand aside, and the empanneling again proceeded with.

After exhausting nearly two panels of jurors, and consuming a day and a half in time, a jury was finally obtained, as follows :

<i>Jurors.</i>	<i>Residences.</i>
JOSHUA H. BEEBE,.....	Guilderland.
JAMES ARMSTRONG,.....	Knox.
ALANSON VAN AUKEN,.....	New Scotland.
JOSEPH RELYEA,.....	Bethlehem.
JOHN VAN HEWSEN,.....	Guilderland.
JACOB VAN OLINDA,.....	New Scotland.
OAKLEY OSBORN,.....	Watervliet.
MYNDERT BLESSING,.....	Guilderland.
JAMES JOHNSON,.....	Watervliet.
VISSCHER FONDEY,.....	do
ABRAHAM HARRINGTON,.....	do
JACOB MARCHE,.....	do

The jurors being duly sworn, Mr. District Attorney COLVIN proceeded to open the case to the jury, as follows :

May it please the Court, Gentlemen of the Jury :

You are empaneled for the purpose of trying the prisoner at the bar, JOHN HENDRICKSON, Junior, for the crime of murder; a crime horrible in any case, but especially horrible in this, where the prisoner is charged with the murder of his own wife.

The prisoner is a young man, twenty years of age, of respectable pa-

rents, born in the town of Bethlehem, in Albany county, about nine miles distant from this city, and where he has resided with little interruption since his birth.

Two years ago last January he married MARIA VAN DUSEN, daughter of LAWRENCE VAN DUSEN, recently deceased, and lately the Clerk of this county, a most respectable citizen, and a man of unquestioned integrity. At the time of her marriage, MARIA was seventeen years of age, and consequently at the time of her decease, which occurred on the seventh day of March last, she was nineteen years of age. She was the youngest child of her parents. She was well educated, accomplished, amiable, kind-hearted, affectionate, and devotedly attached to her father and mother; and she, in return, was beloved by them as a dutiful and loving child is always loved. Mr. Van Dusen, shortly previous to her marriage, had retired from the clerkship of the county (a very lucrative post), with the reputation of possessing considerable wealth; indeed, large means for a person residing in the country.

The prisoner considered the connection would be advantageous to him (I say this, because the evidence in the case will justify me, I think, in the remark), urged his suit, was accepted, and married Maria in January, 1851, although the marriage was opposed by her parents, on the ground that Hendrickson's character was bad, his conduct rowdyish, and that he had led a life of idleness, and was not, therefore, a fit companion for their daughter.

After the marriage, the prisoner and his wife resided with Mr. Van Dusen, occasionally visiting his father, who resided some four miles from the residence of Mr. Van Dusen. Matters passed along tolerably until the following summer (the summer of 1851), when the prisoner committed a gross assault upon a respectable young lady in Clarksville, the residence of Mr. Van Dusen.

In consequence of this, the prisoner was compelled to leave the place, and went to Corning, in August or September, 1851, where he remained for about three months, and whence he returned in November or December following.

In the meantime, during the absence of the prisoner, his wife was delivered of a child. Shortly after his return, and about the seventeenth of December, 1851, the child, then being about six weeks of age, was found dead in the bed in a very singular manner, Hendrickson occupying the middle, the wife the back, and the child the front part of the bed.

After the return of the prisoner from Corning, he communicated to his wife a loathsome disease, which he had contracted during his absence, and which was the original and only cause of the illness under which his wife ever labored, a disease of the womb, which, as a matter of course, was a source of not only great bodily affliction, but also of intense mortification and shame to her sensitive mind.

This led to his dismissal from the house of Mr. Van Dusen, who, as any affectionate father naturally would, became greatly incensed at the disgrace of his daughter, and perfectly disgusted at the conduct of him whom she must call her husband. This took place in January, 1852. From this time forward, the prisoner made his home at his father's, occasionally visiting Mr. Van Dusen's, where his wife continued to reside, and his wife occasionally visiting at the house of the prisoner's father.

The health of the deceased, which had suffered considerably from the loathsome disease which the prisoner had communicated to her, became fully restored this last fall and winter, with the exception, perhaps, of occasional pains in her hips, which proceeded from her womb, and which,

although cured, troubled her occasionally, probably from the weak state in which that organ had been left by the effects of the foul complaint from which she had just been relieved.

In the month of January last, the prisoner induced his wife to make a visit to his father's. She was there two or three times during that month, and thence returned again unto her mother's house, where she remained a week or two. The prisoner, with his sister, came for her again, and she returned with them, about the middle of February, and was not again looked upon by that fond mother, until the seventh of March, when she was returned to her, a cold and silent corpse, clad in the vestures of the grave.

After bidding, as she thought, a short adieu, and promising an early return to her mother, whom she was ne'er to look upon again on earth, the wife of the prisoner resided in the family of his father until the time of her death, which occurred suddenly, and, as at first appeared, mysteriously, on the 7th of March last.

Gentlemen, this sudden and mysterious death the grand jury charge was caused by a deadly poison called *tincture of aconite*, which, they also charge, was administered to her by her husband, the prisoner at the bar, feloniously, and with intent *her* to kill and murder.

To this charge, gentlemen, the prisoner pleads *not guilty*, and you have been selected to listen to the evidence and determine his *guilt* or his *innocence*.

The evidence on the part of the prosecution in this case, as in almost all cases of murder, especially in cases of murder by poisoning, will be circumstantial; but circumstances so strong and overpowering as will bring your minds, in my judgment, to no other rational, or, indeed, possible conclusion, than that *the prisoner at the bar is guilty of the crime with which he stands charged before you*.

The evidence against the prisoner, to which I shall briefly and generally call your attention, may be classed under three heads:

I. The moral evidence.

II. The medical evidence.

III. The chemical evidence.

I. By MORAL EVIDENCE, I mean all the evidence against the prisoner except that which is strictly *medical* and *chemical*; as, for example, the circumstantial and general evidence in the case, independently of the physicians and the chemist who tested and experimented for the poison.

Let us proceed then, gentlemen, to detail to you, as concisely as may be, the moral evidence existing in the case before you. It will appear to you that the deceased, the wife of the prisoner, was induced by him to make her last visit at his father's house about the middle of February last,—that she was in the enjoyment of her usual health, which, at this time, was good; and this fact, gentlemen, must, as you will see in the event, have a great weight in this case. During this last visit, we shall see, she attended some donation parties, and, while there, appeared cheerful, ate well, and was well. On the Saturday before her death she visited her aunt, Mrs. Slingerland, and while there expressed her determination to go to her mother's the next day, Sunday, which was the same day on which, it is charged, she was poisoned. While on this visit, we shall find that the deceased ate very heartily, and returned to the house of the prisoner's father in the evening. On the next day, for some reason not publicly known, she did not go home as she desired. On that day we find her partaking of the usual family meals—breakfast in the morning, and dinner at 3 P. M. Whether she partook of supper or

not, cannot, so far as I know, be shown. In the evening she attended divine service with the family at a church about three miles distant from the dwelling of the prisoner's father. They returned from church between 9 and 10 o'clock. After their return, the deceased read from the bible and from a religious paper, for the family, and retired to her bed with her husband about 10 o'clock.

According to the statement of the prisoner, they lay in bed talking for about an hour, when they went to sleep; and about 2 o'clock he awoke and found her dead, she, at that time, occupying about or nearly the centre of the bed, lying at full length on her back, with her hands either crossed or lying down by her side, the bed clothes covering her person, and in all things appearing as if she had been carefully laid out for burial; the prisoner, at this time, occupying the back part of the bed and calling for a light, without changing his position, except that he was found sitting in the bed when the family came into the room with a light.

And here, gentlemen, let me call your attention to the bed-room occupied by the prisoner and the deceased at the time of her death. The room was an attic bed-room, the house being but one story high, with an attic above. This room was situated in the northwest corner of the house, up stairs. The rooms of the family of the prisoner's father were situated in the south part of the house, below stairs. During the last visit of the deceased to the house of her father-in-law, she had, until within one or two nights previous to her death, slept with her husband in a bed-room situated *below* stairs, and in the southwest corner of the house, in which room also slept at the same time the two sisters of the prisoner. For some reason unknown to us the sleeping apartment was changed, and for the two or three last nights of her existence the deceased and her husband slept in this attic bed-room. (Refers to situation of room, as shown by maps of the premises.)

Return we now to the deceased. We shall find the family engaged in using means for her revival, but to no effect. Neighbors were sent for, but no physician, although she was not supposed by them to be dead for a considerable time after they found her. And, gentlemen, it will be told you that there was no physician residing within *three* miles, and that for *that* reason they did not send for any. The neighbors came, and after the neighbors came she was removed by them down stairs into the family parlor, and from thence during the same day was taken to her widowed mother, locked in that eternal sleep "which shall know no waking" until the last trump shall summon both her and her husband to the judgment seat of that God who, during all that night, kept vigil o'er her dying bed.

The prisoner follows the body, as of course he must, or instant accusation would have been the consequence, and a coroner and able physician and surgeon from the city follow in his wake on the same day; for, gentlemen, suspicious circumstances attend the event of her death, and the whole community is moved by the apprehension that a dark and shocking murder has been perpetrated.

A coroner's jury is immediately summoned, on the same evening (Monday); the prisoner himself is examined, and his relation of the circumstances of the death is so startling and extraordinary, that a *post mortem examination* is demanded by the jury.

Accordingly the *post mortem* takes place on the following morning (Tuesday). The prisoner is uneasy. He is anxious to know what the physicians and coroner are doing; and he inquires of a person, whom he supposed knew, *what they are doing, and what do they find?* He is

told that they are taking out the stomach, and that it was not known that they had *found* anything; and when told this he remarks, *one thing I know, they won't find arsenic*—as if he knew (as he undoubtedly did) the precise poison which she had swallowed—as if *he* knew that that *common* poison, which is found in most cases of the kind, had not been given by the murderer in this case, and hence *they won't find arsenic*. Ah! gentlemen, it was nature speaking out, as she often unconsciously or unguardedly will, disclosing the otherwise well concealed and apparently undiscoverable crime.

Another remark of the prisoner at about the same time, or rather question, was equally truth-telling and significant—*Suppose they put poison into her stomach yesterday, can it be known or ascertained?* In other words, she died yesterday morning. Suppose poison was put in her stomach at that time, would traces of it be found in her to-day?

I have often heard it remarked in regard to the trial of Robinson, for the murder of Helen Jewett, that one simple remark which he made to the officer at the time of his arrest, and before the officer had informed him as to the offence with which he was charged, was convincing proof of his guilt, and, supported by the other facts of the trial, was sufficient to have justified the jury in finding him guilty. That remark was, “*Why do you arrest me? I have not committed the murder.*”

Turn we now to the prisoner's conduct the week previous to the death of his wife.

Why is he about the city of Albany searching for the most deadly poisons? Why is he inquiring for *prussic acid*, which, gentlemen, next to *aconite* (the poison with which it is alleged that the deceased was murdered) is the most deadly of all known poisons? How does he learn the *fatal properties of prussic acid*, and what does he want with that article? Who is to be killed or cured? For whom or what is it wanted? Why is he found going into so many drug shops that week? What is the urgent particular business? On Tuesday or Wednesday of the week preceding the death of his wife, the prisoner is found asking for *prussic acid* at Dr. Springstead's. On Saturday he is seen going into another drug store, and some time during the same week, a person answering exactly to the general appearance, and dressed in a costume corresponding exactly with the ordinary apparel of the prisoner, buys of Mr. Burroughs, the druggist, *an ounce of the tincture of aconite*, the very kind of poison with which, it is charged in the indictment, the prisoner poisoned his wife.

All these strange circumstances, pointing, as they do, directly to the prisoner the finger of suspicion, he will be able to and will undoubtedly explain away to the entire satisfaction of you, gentlemen of the jury, if he is guiltless of the crime with which he stands indicted. It is due to himself, due to the people, and due to his family that he should fully explain, if he would exculpate himself, turn away the public suspicions, and relieve his family of the disgrace now hanging over them.

But you will naturally ask the question, why did he poison his wife? This is a very natural and proper question, and I will endeavor to answer it.

In the first place, he is a thoroughly abandoned, unprincipled and profligate young man; without industry, and consequently ready to perpetrate any crime which may contribute to the gratification of his passions, or stand in the way of his interest. This, gentlemen, will be fully shown to you by a mass of evidence which will be produced on the trial of this cause.

After the gross assault upon the young lady, which I have mentioned as having taken place at Clarksville in the summer of 1851, following his marriage, we hear of him in Schoharie county, during the same summer, *seducing* a young lady under the promise of marriage. The young lady wrote a note to him at New Scotland, announcing her preparation for the marriage, and urging him to redeem his promise. The letter fell into the hands of his wife; and, as a matter of course, created much tribulation and grief in her breast, and caused her to use such language as would naturally flow from the heart of an insulted and injured wife. This feat of seduction was an episode, or digression, in his journey to Corning.

Well, he at length reaches Corning. He returns to his wife about a month after the birth of his child, and then communicates to her a loathsome venereal disease. About two months after his return his child dies suddenly in the manner I have before described. Reproaches for his misconduct follow from his wife. A young, beautiful, intelligent, high-minded and tenderly cared for daughter is tortured in mind, body and spirits, in one year after her marriage, by being the hapless victim of the brutal and *antoide* lusts of that husband to whom she had given her heart, her hand, her affections and her all, and who in return had solemnly sworn to live for her and her alone, and who by this, his worse than brutal conduct, had already shown that in that oath there was nothing to bind him to herself. He attempts to excuse himself by saying that he acquired the disease by a fall on the railroad at Corning. Vain, foolish, lying excuse! The sensitive wife sees inconsistency in its very tone, and in her plain and open-minded manner accuses him, of course, of foolish falsehood.

For this disgraceful conduct he is expelled from the house of her father; and from this time forth he has forfeited forever the confidence and favor, if ever he possessed them before, of *her father and mother*. Whatever expectations Hendrickson may have indulged in theretofore as to the fruits of his marriage, from Mr. Van Dusen, were blasted now forever; and he had every reason to believe (as the event well justified) that he would never receive anything from Mr. Van Dusen.

Mr. Van Dusen died on the 4th of October last, devising all his property, real and personal, to his wife during her lifetime, and on her death the balance to be divided, one half to his son Lawrence, and the other to his two daughters, Susannah and Maria (his son Stephen having been already provided for); and Maria told the prisoner that, whatever might come of her share, he (the prisoner) should *never* have it. And here, gentlemen, was another reason, with him, an idle, abandoned, profligate and unfaithful husband, to get rid of his wife, and provide himself with another who might prove of more aid and advantage to his gaming passions, and more yielding to his sinful lusts.

But, I anticipate a little. Shortly after he is driven from the house of Mr. Van Dusen, and but very shortly after the death of his first born and only child by his wife, we find him at a ball, exchanging rings with and giving a daguerreotype likeness of himself to a young lady to whom he had been engaged previous to his marriage with the deceased.

You will learn, gentlemen, that this matter came to the knowledge of his wife, and you will see how she receives it, and his apology for his conduct. A re-exchange takes place in the summer of 1852. In the fall of 1852, and shortly previous to the death of Mr. Van Dusen, she charges him with various misconduct and dishonesties; on one occasion of stealing a decanter of liquor, which he brought home, and which she urged upon him to take away again. On one of the occasions when he

had been out, he came to Mr. Van Dusen's with this decanter of liquor. It was gin, and appeared to have been put upon some pine shavings. She told him he had stolen it; he denied it, but she made him take it from the house, saying that if her father found it out, there would be trouble about it.

After the death of Mr. Van Dusen, she charged him, at different times, with being a thief—with stealing a buffalo skin, which he defaced by stripes, and which, she told him, she would cut to pieces if he did not take it away. While he was in the room defacing this, he forced her to leave the room in tears, lest she might put her threat in execution. This was no longer ago than last December.

She also charged him with gambling, as well at Clarksville and other places, as at his father's, where, she told him, he and Matthew (his brother) and Charles Haswell played cards and gambled, as well on Sundays as at other times.

He applied to Mrs. Van Dusen to rent the place on which she now lives, at Clarksville, for the present year. This was last winter. It was denied him. She let it to a man of the name of Long, and he was greatly dissatisfied with this also.

In connection with all these facts, you will find him, about this time, asking his wife if he should not get her some medicine? She at first simply answered, no. He repeated and urged the request. She again replied, "*No! Last summer you got me some poison, and I would not take it, and burnt it up.*"

When these facts are produced before you, as they will be, in evidence, you will see, gentlemen, that for him there was no tie to bind him to his wife. Affection, he had none—child, he had none—expectations, he had none. He was profligate, idle, and addicted to almost every vice. He was utterly without character, and thoroughly abandoned.

He was every way prepared, therefore, to rid himself of his wife; and, gentlemen, you will see that he was *rejoiced* at his deliverance. In corroboration of this assertion, if it needed any after the facts I have stated, I shall show you that within three days after his imprisonment, and less than a week after the death of his wife, he was seen in the county jail dancing negro breakdowns and other hilarious dances with all the vehemence in his power, and subsequently doing the same on the Sabbath as well as on week days. And, gentlemen, on the 10th of May you will find him giving to a prostitute a note, directed to Charles Haswell, of the most vile character.

And yet the evidence in the case will show to you that this man *hypocritically* kissed his wife after she had been removed from the room in which she was murdered, and when her jaws and limbs were yet rigid, stiffened and convulsed by the poison which had so suddenly and in so dreadful a manner removed her out of his way.

In our moral evidence, the substance of which I have thus concisely stated to you, gentlemen, you will perceive a very peculiar feature. She died in the house of her husband's kinsfolk—strangers in blood to her, and, when dead, with not a tie to bind her to their remembrance. She died then virtually a stranger among strangers. We are hence obliged to rely upon them for the details of the circumstances attending her death, and reluctantly we are compelled to call them upon the stand. Of the attendant circumstances of her death, they all say they know nothing. And, gentlemen, if their statements are erroneous, we have no means of rectifying them. From them, then, we shall be able to gain no informa-

tion as to her last struggles; but, gentlemen, by a fixed rule, established by the Almighty Ruler of the Universe in constructing the human frame, and by a rule which never fails, we shall show you, in language clearer, more definite and certain even than the evidence of lookers-on could make it, not only the apparent external struggles and pains which the victim in this instance exhibited; but we shall also show to you, even to the most minute particular, every appearance of *inward* suffering and pain which she *must* have undergone, while under the influence of that poison, from the time she swallowed it until death came to her relief.

This, gentlemen, will constitute our moral evidence.

Turn we now to the second division of our evidence.

This consists of the external appearance of the body immediately or soon after death, and of its internal appearance after dissection, or what is termed the *post mortem* examination. The external appearance was that of extreme pallor, as if the blood had been driven from the surface by excessive vomiting, and as if death from exhaustion had supervened. There was a mark upon the inside of the under lip, about the size of a sixpence, with a cut in it, as if the part had been pressed against the teeth by some external body, or the lip had been bitten by the deceased in the last struggles and convulsions of expiring nature. The jaws were locked, the limbs unnaturally stiffened—rigid—almost inflexible, as if the last throes, before death came to her relief, were sharp and terrific.

The internal appearances, upon the *post mortem* examination, were quite as remarkable. All the internal organs of the stomach—the intestines, the gall bladder, the urinal bladder—have three coats, outer, middle, inner; the office of which is to contract and expand the organ. The stomach was congested, wrinkled, shriveled or drawn into folds like a shirred hat, and thus contracted to half its natural size, as if nature, by thus contracting the organ upon itself, had made a mighty effort to expel from it some hurtful body or poisonous substance. It was highly congested—that is, all the small capillary vessels which supply the stomach with blood were distended with blood; so full were these small vessels that extravasation took place, viz., some of the blood exuded through them into the stomach. It was not corroded, eaten, or what would be termed inflamed or irritated, but swelled almost to bursting with blood, as if drawn there or excited by the same hurtful body or substance which produced its corrugation, shriveled or fold-like appearance.

The stomach also contained a remarkable quantity of *viscid mucus*, or a sticky, glutinous fluid, which is secreted or produced by the mucus membranes or internal coat of the stomach, which it serves to moisten and defend; as if nature again in this case had made an extraordinary effort to protect and defend the stomach from the deadly effects of the substance or poison which had been introduced into it by covering or sliming it over with this fluid, and with the same fluid enveloping the poison, and thus preventing it from coming in contact with the tender coats of the stomach, and from entering into the system and destroying life; and this *viscid mucus* was slightly tinged with blood. The intestines, to which physicians give the several names of, first, the *duodenum*, which immediately follows the stomach, and receives from it the digested food, called chyme, and is in length about one foot. The chyme in the duodenum meets with the bile from the gall bladder, which is secreted from the liver, and then is changed into chyle by the action of the bile, and thence passes into the jejunum and illium.

The jejunum follows the duodenum, then follows the illium, &c., in length about nineteen to twenty-four feet in all. The illium enters the

colon, not directly, or in a continuous line, as logs which conduct water are made to enter or connect with each other, but enters from the side, not far from the beginning, thus forming a recess in the upper part of the colon, called the caecum. Where the illium enters the colon, there is a contraction of the intestine forming an obstruction, or gate, as it were, to prevent what passes into the colon from returning; for, down to this point and from this point, whenever extreme vomiting has taken place, the contents of the stomach and intestines are ejected, as also, in part, the contents of the gall bladder.

The duodenum, like the stomach, was in a high state of congestion, and contracted, both in length and diameter; its walls were thickened, which, of course, would be the direct consequence of its contraction. [The whole intestinal canal has a double, muscular coating, running one set lengthwise and the other around.] Its contents, like those of the stomach, were *slightly tinged with blood*. The same was the case with the jejunum and illium, though the congestion in these was not so great as in the duodenum, showing that the same irritant which had corrugated, contracted, and congested the stomach, and tinged it with blood, had extended to all these intestines, a distance from the stomach of about twenty to twenty-five feet. Down to the caecum and colon, the little gate I have mentioned, there was an entire absence of fecal matter, or matter not digested and intended to be carried off by the bowels; a most extraordinary occurrence, and showing either that the deceased had not partaken of food, probably for some days, or that these intestines had been emptied by vomiting.

In the caecum and colon, immediately below the gate, whence the contents could not be ejected by vomiting, you find considerable fecal matter, and for the first time traces of food were discovered. The fecal matter gradually grew harder and drier as it approached the rectum, or the large lower intestine.

The urinal bladder was congested, corrugated, and contracted to about one-third its natural size. It was also empty. The gall bladder did not contain more than half its proper quantity of gall, indicating that it had been removed by some cause such as vomiting. The blood was exceedingly fluid, as if its very life principle had been destroyed. With the exception of these extraordinary appearances, these organs were healthy, as were also the lungs, the liver, the heart, and the brain. Indeed, no trace of natural disease was found, except the womb, which had become enlarged, whether from natural inflammation or from the loathsome disease communicated to her by the prisoner the medical witnesses will explain to you. Whatever had been the difficulty, it was cured, and the womb presented no cause for death. *In short, the medical witnesses will tell you unequivocally that there was no cause for the death of the deceased, except that which produced the extraordinary appearances and effects in the stomach, intestines, urinal and gall bladders; that such appearances and effects are attributed only to the action of some narcotic, acrid or irritant poison; and that the deceased, Maria Hendrickson, came to her death by such poison. I dismiss the idea as utterly preposterous that the poison was administered by herself—that she committed suicide. I could explode the notion in a few words, if it were entertained for a moment by any person.*

She came to her death by poison, therefore, administered to her feloniously by some person. That person was her husband, the prisoner at the bar, and from the very nature of the case, and all the attending cir-

cumstances, could have been administered by him *only*, or by some one with his consent and assistance. Nor need we, in this case, rely upon any proof of the possession or purchase of poison by the prisoner. The moral evidence, in connection with the medical evidence, is sufficient to justify a conviction of the prisoner, in my judgment, without it. Here, then, gentlemen, upon the moral and medical evidence we might rest the case. It is not necessary to a conviction to prove that poison was found in the stomach or body of the deceased. It may have been absorbed, decomposed, or discharged by vomiting or purging. Although we might stop here, we shall show you by the chemical evidence that she was poisoned.

III. THE CHEMICAL EVIDENCE.—On the eighth of March last, Dr. Salisbury, physician and practical chemist, and one of the most distinguished in his department of science in the State, received from the Coroner the stomach and duodenum of the wife of the prisoner, for the purposes of examination; and a few days subsequently the *jejunum, illium, cecum, colon, and rectum*, a portion of the lungs, liver, pancreas, and about six ounces of blood, for the same purpose. These examinations occupied the doctor something like two weeks. He tested for different poisons before he tested for aconite; for neither Dr. Salisbury nor the public authorities were yet apprised that Hendrickson was suspected of having purchased aconite, although he was under arrest for having poisoned his wife. His tests did not discover or indicate the presence of any poison until he finally tested for aconite or aconatine, which is the poisonous principle of the root. With this his tests agreed. On the fifteenth of March, Dr. Salisbury was sworn before the Coroner's jury. Then he had not finished all his tests and experiments, and, consequently, would not swear positively that he found aconite; yet he did then swear that his tests agreed with or indicated the presence of aconite, and that, from the chemical tests and anatomical appearances, his opinion was that the deceased, Maria Hendrickson, came to her death by poisoning.

About the 19th or 20th of March following, Dr. S. completed his examinations and tests, and made some experiments, or rather an experiment, with the result, upon a cat, to which I shall presently allude. On the 24th and 28th March he was brought before Justice COLE; (this was before he knew or the prosecution had discovered that Hendrickson was supposed to have purchased aconite), and he then swore expressly, as he will swear again, that in his judgment the prisoner's wife came to her death by poison, and that the poison was aconatine, the poisonous principle of aconite, and he will give you his reasons for his judgment. A portion of the poisonous principle which he obtained by his tests, being a very small portion, perhaps the twentieth part of a grain, he fed to a cat in some meat. In about half an hour it appeared affected with spasms in the throat, followed by occasional spasmodic contractions of the muscles—twitchings which moved the limbs suddenly, with slight tendency to vomit. She then sunk into a stupid state, which lasted for about half an hour, when she gradually recovered. And here let me remark, that it is not the amount of poison found in the stomach which caused death, but the surplus of the quantity by its absorption into the system. The opinion of the experimentalist is never based upon the quantity found, for the results may be as infallible with a grain or the hundredth part of a grain of some substances as with many ounces. To the same cat he administered six drops of tincture of aconite. In a few minutes she commenced swallowing—had spasms—vomited several times, accompanied with muscular contractions; in forty minutes it ceased; the limbs

became extended ; muscles rigid, jaws set, and she died in an hour and a half. You will be able to judge how far these appearances or symptoms correspond with those in the case of the prisoner's wife. The stomach of the cat, on dissection, and that of the deceased, presented the same appearance—corrugated, congested, and similar whitish matter in the stomach, and intestines tinged with blood.

The *aconitum napellus*, the tincture of which the prisoner is charged with having made use of to poison his wife, known under the name of monkshood, wolfsbane and blue rocket, is a plant which grows in most parts of Great Britain, and also of this country. The stem is from two to five feet high, and ends in a long, dense spike of fine blue flowers, whence it obtains the name of blue rocket. The seeds ripen in autumn ; the plant then dies down, and the root also *shrivels and perishes*. Every part of it is deadly poisonous ; but the poisonous principle is found to exist more intensely in the root. It is the most subtle, certain and destructive of all known poisons, not excepting even prussic acid. Its effects on man and the lower animals are the same. It acts at once by depressing the vital or living powers—never stimulating them as most poisons do at first. Its action on vegetables is similar ; that is, it immediately commences the work of death. It probably kills by destroying the life of the blood itself ; with which, by being absorbed, it must be mixed.

The poisonous principle it possesses destroys whatever it comes in contact with, whether it is man, animal or vegetables ; with the same destructive character it shrivels and kills ; it shrivels vegetables and kills them ; it shrivels the vital organs of the lower animals—the stomach, &c.—and then kills, as in the case of the cat ; it shrivels the vital organs of man, and then kills, as in the case of the stomach of the prisoner's wife ; and in these (its marked and distinctive features) it is totally unlike any other poison.

Here then, gentlemen, you have the outline of the case against the prisoner—the *moral*, the *medical* and the *chemical evidence*—upon which the prosecution rests to procure a conviction.

In all cases of secret poisoning, a conviction must be sought upon circumstantial evidence only. No eye, except that of the Almighty, the murderer and his victim, beheld the horrid deed—unless, indeed, that moral eye, if I may so call it, which God evokes from circumstances ; which by his explicit law must ever accompany such cases as this ; and which, sooner or later, must point out the time when, the place where, the manner how, and the poison with which the murder was accomplished.

You will, then, gentlemen, listen carefully to the evidence of the prosecution, as well as of the defence ; and I trust the long, and, I fear, somewhat tiresome opening which I have made may assist you to give character and application to the evidence, as it shall be produced from the mouths of the witnesses. I have no other object in view than to have a just and fair minded investigation of the case.

EVIDENCE FOR THE PROSECUTION.

AFTERNOON SESSION.

On the convening of the court this afternoon the prosecution proceeded to the examination of witnesses.

Catharine Ann Hendrickson.—I am the wife of Matthew Hendrickson, the prisoner's brother; lived in March last with my father-in-law, Hendrickson, and had lived there one year; myself and husband had a part of the house to ourselves; it was the north part [a diagram was here shown witness, on which she pointed out the portion occupied]; the closet between the parlor and kitchen we occupied in common; in our bedroom we had one bed; there is a door on the east side of our room, and a window on each side of the door; there is also a window at the north end of our room, between the chimney and a closet formed under the stairs. I was at home on the Sunday that Maria died; there was a bedroom in the attic, over a portion of our bedroom and kitchen; that room was in the use of father Hendrickson; previously to John Hendrickson, jr., and his wife occupying it, it was occupied by a Dutchman who worked for father Hendrickson; do not think this man was living at the house when Maria died; he had had a bed in the attic; he left the house two or three days before Maria's death. I don't know whether he had been gone more than two or three days or not; Maria had been on a visit to the house for, I think, two or three weeks before her death; she took her meals with me; she went visiting the Saturday afternoon previous to her death to Mr. Slingerland's; mother Hendrickson, Maria and Harriet Hendrickson (John's sisters) went; she returned home the fore part of the evening; John and herself had slept in the attic above spoken of before that night; they commenced sleeping there as soon as the Dutchman left; they did not use the same bed he had; there was no bed carried up stairs into that room after the Dutchman left; prisoner and his wife slept in the northwest corner of the room; there are two windows in that room, one at the head of where their bed was, which opens on hinges; the other one is fastened; there are hanging paper curtains to those windows; there was a chest of John's under the window, near the head of his bed; another chest stood beneath the other window; there was a lounge in the room, standing near the foot of John's bed; there was another bed standing in the southeast end of the room; there was no carpet or covering to the floor. On the Sunday evening before Maria's death she went to church; on that day she took her meals with father Hendrickson; at early candle light she left for church; myself and husband had retired before she returned; father Hendrickson, John and his two sisters accompanied her; I occupied the back part of the bed; did not sleep soundly after I went to bed, but was asleep when they came home; I had been up with my nursing child more or less for several nights previously; I was up this night with my child, but *not* out of bed with it; could not tell the hour; it was after they had returned from church; I know they had returned, from a candle

which was placed on a table in my room for them being gone; do not know whether they had gone to bed or not; mother Hendrickson had placed the candle there for them; there was a light in the room when I awoke with the child; it was a *lamp* standing on the table; when I awoke the *candle* was gone. I did not wake up at any other time until I heard the call that Maria was dead; it was two o'clock and after when I was awakened again, by the noise of John hallooing from up stairs; I could not say what he called; he called more than once; could recollect nothing that was said; the lamp was burning at this time; the head of my bed lay to the west of the house; when I heard the hallooing I went up stairs as fast as I could; Matthew, my husband, got out of bed first; he went up stairs, taking a candle with him; don't know that he lit it; did not nurse my child or dress myself before I went up stairs; I left the lamp down stairs burning when I went up; Matthew got up stairs first; I was about the last one who got up; on getting up there I found the rest of the family, father Hendrickson and mother, Matthew, Maria, Harriet Ann, and the prisoner; when I went in the prisoner was in bed, whether lying, standing or sitting cannot say; I think he was on his knees, partly up in the back part of the bed; Maria, his wife, was lying near the middle of the bed, on her back, partly uncovered; mother Hendrickson was rubbing her hands; heard John say nothing after I got into the room; I felt of Maria's face and she appeared cold; the face was not moist; did not think her dead, nor did any of the family; mother Hendrickson tried to get some camphor and water into her mouth; she looked pale; do not recollect how her head lay when I went in; she did not speak after I went into the room; she was dead; I never heard John give any account of how she came by her death; never heard any of the family ask him the question; John put his hand on her forehead, after I went into the room, and called to her twice, exclaiming, "Maria! Maria!" I think he was then in the back part of the bed; he said nothing more that I heard then, nor do I recollect anything more that he said afterwards; when I went up stairs Matthew had a light there; remained up stairs two minutes; left the rest of the family there, and went down stairs and got some camphor; could not say how long I remained; when I went up again Matthew went for the neighbors; did not know what became of the lamp on my table; I went down again and took up a peppermint bottle; I came down again before Matthew returned; I think there was a light there when I went down; I do not know whether a candle or a lamp; do not recollect whether I went up stairs again before Matthew returned with Mr. and Mrs. Mead; it was about ten minutes after I had taken up the peppermint bottle that they came; there are curtains to the east windows of my room; they were down that night; when Mr. and Mrs. Mead came mother Hendrickson rolled the one on the north window up; can't say as to the curtain at the other window, but think it was down; do not know whether it was before or after three o'clock when Mr. and Mrs. Mead came; they were the first neighbors who came; I have been to Mr. Wheaton's office since I was examined before the grand jury; I think Maria generally wore a nightcap when she went to bed; cannot say for certain; I think before the body was brought down stairs I saw the prisoner at one time sitting on the chest; he was then dressed; I think I heard some one say about the time Mr. and Mrs. Mead came that it was 3 o'clock.

Cross-examination.—My infant was over ten months old; I do not think I slept very soundly when it went to sleep in my arms; I heard no noise that night, outside of my room, until I heard John call; there

was no way for the prisoner to get down stairs, except by a stairway opening into my room; the chamber was under the bed; it was half full of urine; there was nothing else than that in it; there was no other vessel of any kind in the room to my knowledge; before the Dutchman (referred to in direct examination) came to live at the house, the prisoner and his wife had slept in the attic bed-room; the Dutchman came there along in the fall, and at first slept in the large open attic; he was changed into the bed-room because the large open attic was too cold for him; do not recollect where the prisoner and wife slept on the visit previous to the one on which Maria died; during my residence with father Hendrickson (about one year), John and his wife were there half the time; I think they lived happily together; I never did hear an unkind or harsh word pass between them during all the time they were there; he always waited upon her; they were in my room several times; during their visits at the house during the last year she seemed as fond of him as at first; when I went up stairs and found mother Hendrickson rubbing Maria's hands, I recollect the prisoner raising the body up; when he put his hand on her forehead and exclaimed "Maria! Maria!" he was not crying at that time; after he got out of the bed I got into it to assist; I have lived about one year at father Hendrickson's; when in my room I can hear any one talk or walk over the floor in the attic bed-room; our stove-pipe went up through the floor into their bed-room.

Direct examination resumed.—I cannot name anything that the prisoner ever provided for his wife; I do not think I ever heard Maria find fault with prisoner for gambling.

Maria Hendrickson.—Is a sister of the prisoner; went to church with prisoner and his wife on the Sunday evening preceding her death; the church is about two miles from the house; we returned between nine and ten o'clock; Maria sat at the table with the family that day, and I believe she took her regular meals; we had sausages, ham, pickles, &c., for dinner; I went visiting with Maria the Saturday previous; it was after ten o'clock Sunday night that prisoner and wife went to bed; before going to bed she read the Bible and a newspaper; can't say whether they took a light from father's room or not on going to bed; did not notice whether either of them went to the closet before going to bed or not; after going to bed I was aroused, I should think about two o'clock, by some one hallooing; I could not hear what was said, but thought it John's voice; I went up stairs; Matthew and mother were there; saw Maria lying in the front part of the bed, near the middle, on her back; Matthew had a light there; John was in the back part of the bed, I believe sitting up; John said nothing more than calling her name; I did not think her dead when I got there; her face was cold; recollect nothing about the condition of the bed clothes; do recollect that mother told some one to loosen her night cap; Maria's face was pale; mother opened her mouth with her hands to put some camphor and water in; her eyes were partially closed; did not feel of her chest; did not ask John how it happened, nor do I recollect any one of the family asking him; *never recollect any one asking him in regard to it, nor of his saying anything about it*; I think the prisoner and his wife had always slept in the attic bed-room previous to Maria's death, except during the time it was occupied by the Dutchman; the Dutchman left father three or four days or a week before Maria's death; can't tell when he first occupied that room; it was some time in the winter; can't

recollect the Dutchman's name; he came to father's last fall, before the cold weather set in; he was occasionally absent, sometimes two or three days or a week at a time; prisoner and Maria slept up there sometimes when he was gone; they had done so during the last three weeks; John and his wife occupied the same room with me, when they slept down stairs; Maria made two visits to father's during the winter, one of two and the other of three weeks; the first two weeks John and herself slept in the attic; at the time Maria's child died she slept in a bed-room down stairs, off from Matthew's kitchen; the bed in the parlor was not occupied at the time of Maria's death; when they slept in my bed-room, Maria occupied the front side of the bed; I recollect a nightcap being sent from Veeder's to our house, belonging to Maria; we sent it to her mother's; the body of Maria was removed to her mother's on the Monday afternoon following her death; my brother John wore a blue sack overcoat last winter, and I believe a plush cap, though I do not know that it was plush; it was a dark cap; I gave the coat to officer Brainard after John's arrest, as also a cap I think was his; I had seen him wear them; I got them from my bed-room; I believe the name of the Dutchman was Joseph Schafold.

Cross-Examination.—I do not know who put the coat and cap in my bed-room; the prisoner was married two years ago last winter; Maria, for the last year, has been at our house for half the time; lived in the same family with my father, and eat at the same table; I was at home during most of the time she was there; during the last six months of their visit, when prisoner and wife did not sleep in the same room with me, they occupied the one up stairs; whenever it was vacated they slept there; the Dutchman was put there because it was cold where he had been sleeping; there was another bed kept there besides the one the Dutchman slept in; Matthew hired the farm and a portion of the house from father; there was only one sitting room in father's portion; during the whole of the time, for the last year, in which prisoner and his wife were at our house, I do not recollect an instance of unkindness between them; they appeared to think a great deal of each other; he was very tender of her, watching over her, and caring for her health; he was careful about her not getting her feet damp, for fear she would catch cold, and would caution her not to expose herself, and sought to prevent her from doing so; I never heard his wife upbraid him for playing cards or stealing; for the last year the prisoner has made our house principally his home; I know of nothing Maria eat after the last Sunday's dinner; I don't think she eat anything at dinner that day, for I recollect her saying she did not feel as if she wanted any dinner; she complained in the morning and afternoon of that day of a dreadful pain in the head; I do not recollect seeing her take any medicine that day; she had homœopathic medicine in boxes; I have seen four boxes, all containing pills; I have seen her take them; the pickles we had for Sunday's dinner were tomatoes and cucumbers; Maria was very fond of tomato pickles; I recollect seeing no one help her at dinner; on going to church in the evening, she complained of a pain in her back, head and hips; she complained of a terrible pain in the top of her head; there was no other vessel in Maria's room the night she died except the chamber; it was about half full of urine; nothing else was in it; when the family had collected in prisoner's room the night Maria died, there was much fright and confusion, and I can hardly recollect what occurred; I saw the prisoner raise her in bed; I saw him place his hand upon her forehead, and heard him exclaim "Maria! Maria!" he got out of bed di-

rectly after mother had tried to get some camphor in her month ; I recollect seeing no candle that was not lighted in the room ; I recollect last winter going up with the prisoner to grandfather Simmons, and on our return we stopped at Mrs. Van Dusen's ; Maria was there, and she seemed to be very glad to meet him, and made a great time over him ; she accompanied us home ; I recollect visiting Mrs. Slingerland's with Maria on Saturday, the day before her death ; Mrs. S. asked her to stay ; she said she would if she could go home and get back to our house in a day or two ; she had been in the habit of visiting her mother once in every two or three weeks.

The examination of the witness was not concluded, when the court adjourned till 9 o'clock to-morrow (this) morning.

THIRD DAY.

WEDNESDAY, June 15, 9 A. M.

Quite a number of ladies were present among the spectators at the opening of the court this morning.

The prisoner still preserves his calmness and self possession.

Maria Hendrickson's cross-examination continued.—I saw, after seeing the pills in Maria's possession which I spoke of yesterday, also several little powders, which she said she got from Dr. Springsteed ; I saw Maria about the time she got them, and also when she was at the house the last time ; I have sent into town by my brother John for something from the apothecary's to clean my teeth ; it was the week before Maria died I so sent ; he did not get what I sent for ; it was muriatic acid.

Direct examination resumed.—Think Maria was with the family at her last meals ; I do not recollect just now of her omitting a meal during her last visit.

Q. Did you mean to swear on your cross-examination, that although Maria sat at dinner on the last Sunday, that she eat nothing ?

A. Don't recollect whether she eat or not ; I can't say for certain whether she was at breakfast that morning ; don't recollect what we had for breakfast ; can't tell whether we had dried raspberries for dinner or breakfast that day ; we had them in the house ; Maria said at dinner table that she felt as though she did not want anything to eat ; John partook of dinner ; also father and mother and Harriet Ann, as near as I can recollect ; have no recollection that Maria partook of tomato pickles that day ; during the last visit, I heard John's wife say she preferred sleeping up stairs ; can't tell the time she said so, but it was last winter during their last visit ; no recollection of how many days before her death she said so ; Maria kept her clothes in the bed-room up stairs, some in a trunk, and some hanging up ; I have heard John tell Maria quite often that she must not work, that it would hurt her ; have heard him say it this last winter ; cannot say whether I have heard it more than once ; I have known Maria to go out and sew at my aunt's this last winter ; it was, I think, the fore part of the winter ; do not know whether she got pay for it or not ; Maria complained in the morning of the last Sunday of the dreadful pain in her head ; it was before dinner ; she said she had a dreadful pain in her head and a pain in her back ; she complained after dinner in similar words ; also in the evening about early candle light ; also complained similarly when going to church ; don't recollect of her complaining in church ; she made the same complaint on the road home from the church ; she did not appear very lively ; it

was during the two last weeks that Maria was at our house that I saw these pills; she had been at our house a week before she went to Albany and got these pills; I went to Albany with her when she got them; she had gone into Dr. Springteed's before me, and had got the pills before I came in; she did not tell me how many boxes she got; did not see any boxes with her at Dr. Springteed's, or on that day; she did not tell me at Dr. Springteed's, how many boxes she got; the way I knew she got any boxes that day, was by her telling me she had; she got the pills for the pains she had been complaining of in her head, back and hips; it was on Monday, two weeks previous to her death, that we were at Springteed's; I got some pills; they were homœopathic sugar pills, the same, I suppose, as Maria got; I got them for pains in my hips and sides; my father lives seven miles from Albany; Maria carried the pills in her pocket; can't tell where I first saw these pills after we left Dr. Springteed's; two boxes were sent up to Mrs. Van Dusen's, after Maria's death; there were two other boxes, which my sister said she handed to the Sheriff or Coroner; my brother John never lived in Albany; I did not dress myself the night of Maria's death before I went up stairs; I went up as fast as I could; Matthew stood by the bed holding a candle; mother was there; father did not get there before me; I have never mentioned the white powders Maria had before, the question not having been asked.

Q. Did not Mr. Wheaton ask you the question last night?

A. He did not; I first saw these white powders last summer; can't state how many I saw, think about a dozen; don't know that I saw her take them; I saw these powders the last time she was at our house; there were two or three, or three or four; she got them last summer; she got these at Dr. Springteed's; she said she would take them; she said so some time the last week; found none of the powders after Maria's decease; do not know how Mr. Wheaton or Mr. Hadley knew anything about my sending to town for muriatic acid; I have not spoken to any one about it since yesterday; I do not know what muriatic acid is; I do not know that I ever saw any of it; it is used to clean the teeth; I don't recollect who told me it was used for that purpose; I have not spoken to Mr. Wheaton or Mr. Hadley about the powders I spoke of since yesterday, nor have I mentioned it to any one.

Q. Do you know how Mr. Wheaton or Mr. Hadley knew that you saw these powders?

A. I do not.

Q. Have you been to Messrs. Wheaton & Hadley's office since you was examined before the police magistrate and the grand jury?

Objected to as irrelevant. Objection overruled.

A. Yes.

Q. How often?

A. I was there on Monday, and last evening after court adjourned.

Cross-examination resumed.—I went to Messrs. Wheaton & Hadley's office to inquire if the witness Catharine Hendrickson would be wanted again. When Maria went to Aunt Veeder's, it was on an invitation to come and make her a visit; Maria had been there several times, and sometimes staid a week or over; she sewed some while she was there; I never knew her to go out to work for any one after she was married to my brother.

Wendell Oliver, for prosecution.—Reside at my father's, in Bethlehem, near Hendrickson's; I heard, at the time, of the death of the prisoner's wife; I attended church the Sunday evening that Mrs. Hendrickson died; the church is about two miles from Hendrickson's; I saw some of Hendrickson's people there, saw the prisoner there; on returning from church I stopped at Snyder's tavern; recollect seeing the prisoner stop there after church; can't tell the time; should think it about nine o'clock; I left the tavern after the prisoner did, and went to William Haswell's; Mr. Haswell resided about a mile from Mr. Hendrickson's; I passed by Hendrickson's house that night on my way from Haswell's house; I have no means of judging of the time I passed; the road runs in such a direction as to bring the north end of the house in view as I passed by; the roof of the house falls east and west; I think there was a light, but in what window I cannot swear; I have been examined before 'Squire Cole and the Grand Jury on this matter; I do not remember how long after the transaction it was that I was examined before 'Squire Cole.

(The District Attorney here offered to put into the hands of the witness, for the purpose of refreshing his memory, the testimony he gave before Squire Cole, and signed by the witness.

Objected to, but after discussion court granted the right to do so, and the testimony was read by witness.)

Q. Can you now state, from the best of your recollection, in what part of the house you saw a light that night?

A. I think I saw it up stairs; can't swear positively from how many windows I saw it; if I saw it at all up stairs, I must have seen it in two; there are two windows, I think, up stairs in this end; I first saw a light at the north end of the house; I can't swear positively that I did or did not see a light in the lower north window; I have no recollection whether I did or did not.

[The question in regard to this fact was repeated several times by the District Attorney, in different ways, and answered as above. The examination of the witness on this and the following points excited much discussion between counsel, and every question was objected to and contested.]

Q. Why do you think you saw a light in the upper end window?

A. Because the light was elevated from the ground; I think I saw a light in the two windows; I think the strength of the light must have been equal in both windows, had I seen a light at all up stairs.

Q. How often have you been to Messrs. Wheaton & Hadley's office since your examination before Squire Cole and the grand jury?

Objected to, but allowed.

A. I do not know. I can't swear that I have ever been into Mr. Hadley's office, because I do not know that he has one.

Q. Have you ever been to an office in State street, called Wheaton & Hadley's office?

A. I have been into an office in State street, which I have heard people say was Wheaton & Hadley's office; I saw Mr. Hadley there.

Before my examination before Squire Cole, but after I was subpoenaed, I went there, and saw Mr. Hadley in the office.

Q. Have you conversed with Mr. Hadley on the subject of seeing those lights in the window?

A. I think I might, but I can't remember what the conversation was.

I think I have had a conversation with Mr. Hadley at his office since I have been subpoenaed on this trial; I do not think I talked with him on

the subject of what I could swear to; since I have been subpoenaed this time, I have not spoken to him on the subject of these lights.

Q. Have you now any different recollection as to seeing the lights referred to.

A. I do not know that I have; after I passed Hendrickson's I went to Jeremiah Mead's, on the same road, about a half a mile off; I went directly there; I was about four or five minutes going there; I went in; I remained two or three minutes; I found Aaron Palmatier there, and he came away with me; this was the last time I passed Hendrickson's house that night; the first time I passed Hendrickson's house was about six o'clock in the evening; I was going to church.

Cross-examination.—I never spoke to Mr. Wheaton until this moment, to my knowledge; went into the office called Wheaton & Hadley's office to see Miss Haswell, who was there with Miss Hendrickson. At that time I did not have a single word with Mr. Hadley in regard to this trial; I was not cross-examined on my examination before 'Squire Cole; Mr. Colvin examined me before the Grand Jury; I do not recollect whether my deposition taken before 'Squire Cole was read to me; I think a part of it was; what part I do not remember; I have never had any conversation with Mr. Hadley in regard to what I was going to swear in this suit; I think Hendrickson's house is about one hundred yards from the road; I had no reason whatever for examining what window the light shone from; there are a number of trees between the road and house; the boughs of the trees would afford a greater obstruction to my seeing the upper than the lower windows; I drove by the house at the rate of ten miles an hour; I had two houses to pass between my home and Mr. Haswell's; I have no recollection of seeing a light in other houses that I passed, except Mr. Mead's, where I stopped; do not remember who first inquired of me about seeing the light; I paid no attention whatever to whether the light was in the upper or lower room; have been in Hendrickson's house; it is quite low between joints; cannot swear that I have any recollection of seeing a light in more than one place; I think I saw it in two; I cannot swear positively that I did or did not see a light in more than one spot; I think it was after two o'clock that I saw the light; I do not recollect the time I left Mr. Haswell's; I had been spending the evening at Haswell's; it was nearly a mile from Hendrickson's; I went directly home from Mead's, and after I got home, before going to bed, I heard the clock strike three; it was a cold night, and there was sleighing.

Direct examination resumed.—I guess at the time I passed Hendrickson's; the clock I heard strike is in our sitting-room; I did not stop to count the time it struck; I was walking up stairs; I do not know that I have mentioned this fact in my previous examinations; I can recollect no other particular times when I have heard the clock strike; I can swear that I heard the clock that night strike three; Palmatier staid with me that night; the prisoner and myself have been school mates together.

Jeremiah Mead, for prosecution.—Lives next neighbor to Mr. Hendrickson, about half a mile from the house; his wife was called for the night Mrs. Hendrickson died. Matthew Hendrickson called for her; he came in a one horse sleigh; did not look at the clock when he came; my wife and myself went over to Hendrickson's with him; I looked at the clock before I left; it lacked two or three minutes of four by it; the clock was too fast by, I judged, about one hour; I suppose the true time was before three o'clock; I suppose it was about three o'clock

when I reached Hendrickson's; I went immediately to the room occupied by prisoner and wife; I found prisoner there; he was sitting on a chest at the head of the bed; his sister Maria was there; my wife went in with me; the prisoner's wife lay upon the bed, near the middle, on her back, with the clothes over her, and I think no nightcap on; her hair was smooth; I noticed no cut upon her lip; she was dead when I got there; did not hear the prisoner say how she came to die; didn't hear him speak during the time I was there; I assisted in bringing her down stairs; I felt of her face and the pit of her stomach; her face was colder than her stomach; about as cold as her feet.

(On being asked to say "how cool" it was, witness stated that he did not pretend to say "it was *cold* by any means.") The face was no cooler than a person's would be when sleeping; her mouth was shut; her feet and ankles were of the same temperature with her face; her face was pale, but was not at that time of a death paleness, in my view; I placed my hand upon her heart, and found it did not beat; there was no physician there, or sent for; I went down stairs after I first went up, and before we removed the body; Matthew Hendrickson assisted me in removing the body; the body was taken to the parlor, and there laid out; this was probably 25 minutes to 4; the prisoner sat on the chest, dressed, when I first saw him; I afterwards saw him down stairs; I heard none of the family ask him how she came to die; I remained there little short of an hour; when I went away my wife remained; I returned about eight or nine o'clock, and found all the family except Matthew there; I remained but a short time; I heard no questions asked the prisoner this time in regard to the death; I again went home, and returned about 10 o'clock, remaining until between 2 and 3 o'clock, taking dinner there; the prisoner did not take dinner when I did; at no time when the prisoner was present did I hear him give an account of his wife's death; I left Mr. Hendrickson's at 3 o'clock with the body; we took it to her mother's; the coroner had not reached Hendrickson's before we left.

Court took a recess until 3 o'clock.

AFTERNOON SESSION.

Jeremiah Mead—Direct examination continued.—The prisoner accompanied us to Clarksville in another conveyance; we reached Clarksville between 4 and 5 o'clock; did not remain there till the coroner came; Maria's eyes were closed when I got to Hendrickson's; I was awake when Oliver called at my house, the night of her death; I heard him when he drove up; I heard the clock strike one a few moments before he came in; I think he remained but a very short time; Aaron Palmatier was in the house at the time, and I presume went off when Oliver did; I slept above, and the clock was below; about an hour and a half, as near as I can tell, elapsed after Oliver left and before Matthew Hendrickson came to the house; I was in a dose during the time; heard Matthew when he drove up; it is about half a mile from my house to Oliver's.

Cross-examined.—I went to bed between 8 and 9 o'clock; had been asleep before Oliver came to the house; the clock was in the room under where I slept; my daughter and Mr. Palmatier were in this room, I presume; the clock stood on the west side of this room; I was lying awake when Oliver drove up; at that time I heard one stroke of the clock; I have no doubt it struck more at the time; but I heard only one

stroke; I looked at the clock as I was going to Hendrickson's, and it lacked two or three minutes of four; when I went into the room, prisoner was sitting on a chest near the head of the bed, with his hands to his face, and appeared to be grieving; I heard him sigh; he was not crying so as to attract attention.

Lucy Mead, for prosecution.—Is the wife of Jeremiah Mead; was at home night of the death of prisoner's wife; I was awake at the time Oliver drove up, and also when Matthew Hendrickson came; was not sound asleep between the time Oliver went and Matthew came; I did not hear the clock strike; it was about an hour and a half after Oliver went that Matthew came; I went with my husband, after Matthew came, to Hendrickson's; it was about three o'clock when we got there; went up into the room where the deceased was, shortly after I got there; I found Maria Hendrickson and the prisoner there; his wife was lying in bed; her forehead was cool; her stomach warm; her feet were about as cold as her forehead; I think her hands were crossed on her body; I noticed no mark upon her lips, and did not open them; I heard no account given by John of the way she came to her death; I assisted in laying the body out; the prisoner came in, after the body was laid out down stairs; he kissed her, and exclaimed "Oh! that she only could be alive again;" this he did at about eight or nine o'clock in the morning; I took breakfast there, and remained till nearly twelve o'clock; it was about four o'clock by our clock when we left home.

Cross-examination.—I looked at the clock myself before we went; it was about an hour too fast; it was four o'clock by our time, and it was three o'clock when we reached Hendrickson's, as I heard it said; there was no clock in Matthew's room; I had not been up stairs when I heard it was three o'clock; I went to bed early that night; I had been asleep before Oliver came to the house; I was half asleep when Oliver drove up; his sleigh bells aroused me; I dozed afterwards until Hendrickson came; it could not have been shorter than an hour and a half that I dozed; I do not remember speaking to my husband more than once during that time; I have told my husband that I thought the time was an hour and a half; I usually lay awake when not well; had a headache that night.

Magdalene Pangburn, for prosecution.—Resides at Clarksville; knew the prisoner's wife, Maria Van Dusen; I saw her during the three last weeks she visited at Hendrickson's; I saw her at three donation parties; the first one was at Tarrytown, about four or five miles from Hendrickson's; spoke to her then in regard to her health; she said she was well; she looked well; this was the twenty-fifth of January; the next time I saw her was at Unionville, on the seventeenth of February; she then said she was well, and appeared well and cheerful; I saw her at another donation on the twenty-fourth of February, at Mr. Brait's; she was very cheerful there; I asked how she was, and she said she was well; I did not see her again previous to her death; saw her the day she was brought to her mother's.

Cross-examined.—I cannot say where she was staying on the twenty-fifth of January, nor on the twenty-seventh of January; I do not know whether she was at her mother's after the last date; I live nearly opposite to Mrs. Van Dusen's; I had been quite intimate with Maria; I never seen her have a fit or anything like it; I have seen her sick; never saw her have spasms; never have been sent for when she was sick.

Direct examination resumed.—She was complaining sometimes, but was generally a middling healthy girl; when I saw her sick she was at her mother's; it was after she had her child, a year ago last winter.

Jeremiah Haight, for people.—I work at painting; I work for nobody to-day. The examination of this witness was postponed.

William E. Haswell, for prosecution.—Resides at Bethlehem; have known the prisoner for fifteen or twenty years; I heard of the circumstances of the death of prisoner's wife; I was in Springsteed & Bullock's drug store, south-east corner of Lydius and Pearl streets, the week before her death; it was, I think, on Tuesday; I saw the prisoner there, and also saw him before he came into the store; his brother Matthew was with him; the prisoner had on a blue overcoat and a cap; had seen him dressed that way before; I was sitting by the stove in the back end of the store; they came from Lydius-street down; they stepped past the store, and made a stop for a moment; then prisoner came into the store from the Pearl-street side, and walked up to the counter; Mr. Springsteed was sitting beside me and got up and went towards him; did not hear what he said to Springsteed; he remained only a short time; I think he went out the Lydius-street door; the cap he wore was a plush one; I think the time was about two o'clock; cannot say whether his face was flushed or pale.

Cross examination.—I came to town that day about ten A. M.; I stopped at the stable yard in Lydius, just above Pearl, and went from there to the Knickerbocker eating house, in Pearl, near State; I spoke to some persons whom I met in going from the yard to the Knickerbocker; Thomas A. Brayton kept the Knickerbocker; I do not know that I can give the names of any persons I met there; the Knickerbocker is a place of resort for persons from my section; I remained there about an hour or more, and took my dinner; remember no person who took dinner with me; I smoked a cigar, and smoked some with a man named Richard Clute; I saw a good many people that I knew there, but cannot remember their names; from there, went down Pearl-street; think it was after 12 when I left there; I went to the store of Mr. Haswell, corner of Lydius and Pearl; do not remember who was in there; I was not there half an hour; from there I went into the store of Mr. Springsteed; I saw Mr. Bullock in the store, and also Jerry Haight; he was in the back part of the store, talking; Mr. Bullock remained there until I saw the prisoner; I remained there from three-quarters to an hour; I had been there three-quarters or half an hour when the prisoner came in; I was sitting on the south side of the stove, facing Pearl-street; I think it was the window through which I saw the prisoner and his brother stop; they stopped together only a moment; they both stood facing me, with their lips moving; I think they stood about half a minute; it was the first day of March; I recollect it because I was subpoenaed as a witness that day; I do not know as I can swear positively that it was the day I was subpoenaed as a witness, but I think it was; I was in town the day before; I can swear positively it was not Monday I saw prisoner in town; I was not in Springsteed's on Monday; prisoner was some 16 or 18 feet from me when he came in; it was a plush cap he had on that day; Matthew wore a plush cap; I think Matthew had on a brown coat; I started from town about sun-down; I cannot mention the names of any one I met that day except John and Matthew; I was in town three times that week; Monday, Tuesday and Saturday.

Direct examination resumed.—On hearing of the death of the prisoner's wife, and his being charged with it, it occurred to me that he had been into Springstead's the week before; I had also had a conversation with Jerry Haight about it; she died on Sunday night, and the conversation was on Monday.

Cross examination resumed.—The conversation with Haight was in the forenoon; I cannot swear positive that I heard there was anything charged against prisoner that morning, but think there I did.

Court adjourned until 9 A. M. to-morrow (this) morning.

FOURTH DAY.

THURSDAY, June 16.

Jeremiah Haight, for prosecution.—I am a painter; recollect hearing of the death of prisoner's wife about the time it occurred; am somewhat acquainted with the prisoner; I saw prisoner in Springstead & Bullock's store, in the months of February or March; Mr. Springstead was in; I was in; Mr. W. E. Haswell; I think it was on Tuesday, near the first day of March; I fix the time as follows: on the 22d February, Washington's birthday, I went to Bethlehem; I spent that week in the country, and came back on the Monday following, about 12 o'clock; it was the next day, I think, that I saw the prisoner in the store; at night I slept at the store; I am not confident whether I was sitting or standing when prisoner came in the store; I was conversing with Mr. William E. Haswell; the prisoner had on a blueish coat, his cap was of a snuff color; it was between 12 and 2 when he came in; he went up to the counter; I heard nothing that he said; he leaned with his elbows on the counter, in the position of talking with Mr. Springstead; whether he said anything or not I don't know; I did not see him when he came in; he was in the store when I went out; I went out the Lydius-street side; I went across Pearl-street, and while I was walking, three or four stores from there, I saw the prisoner going up Pearl-street; he was on the east side, and I on the west; no one was with the prisoner when I saw him going up Pearl-street.

Cross-examined —I was employed by Vedder, as a painter, last March; when I went into the country I went to the private house of Elias Hicks; I went to see the people; there was another family in the house; the name of the man who had lived there, but was dead, was Jolly; I staid there until Monday morning; I went there on the 22d day of February; I was not well when on the stand yesterday; I feel pretty good this morning; it was in the neighborhood of 8 o'clock in the morning that I started for town; I came on foot; they call it three miles from the city; I stopped on the way at a public house kept by Mosier; I came, after getting to town, to Springstead's drug store; I cannot say how long I staid there; can't recollect a single person who came in there any part of the day when I was there; I did not see the prisoner, after I saw him in the store, until he was brought in by the sheriff; I saw him on the Monday before he was in the store, when he passed Mosier's public house; can recollect no one but the prisoner who passed there that day; I think his brother Matthew was with him; they were coming to the

city in a wagon; I did not see that they had any load; don't recollect seeing them that day again; I saw them somewhere about 10 o'clock; I do not think it was Monday I saw prisoner in Springsteed's, but will not swear positively; I cannot tell how long I saw prisoner in the store; I put on my coat and went out; I stopped on the southwest corner of Pearl and Lydius streets, looked around, and crossed over to the other corner; I think the case was mentioned at the Knickerbocker afterwards, when Mr. Haswell was there; I asked him if he recollected what day it was that he and I were conversing at the store, when prisoner came in; he said he thought it was Tuesday; I asked him how he knew, and we talked about it, but did not come to any conclusion between ourselves; only a few words passed between us, and we did not pretend to agree; this conversation, I believe, was at the drug store, at Springsteed's; I have not conversed more than once with him about the day; I did not converse with him about the day at the Knickerbocker; when prisoner came into the store there was no more reason for my noticing his dress than that of other persons; I am sure I noticed his dress on that day, and it was blue; I don't think that I can particularly describe the dress of any other person on that day.

Direct examination resumed.—I merely asked Haswell what day it was, and he said Tuesday; I merely asked him if he was certain it was that day; he said he thought it was that day, and so we parted.

Olive Slingerland, called by prosecution, sworn—says: Am aunt to the deceased wife of the prisoner. She visited at my house on Saturday previous to her death; I asked her "how she was" and she said "she was well;" she partook of food at my house; she came there just as we were to take dinner; she threw off her things, and stood by the table and drank two cups of tea, and ate; we baked some warm sausage and johnny-cake, of which she said she was very fond. She ate heartily. Mrs. Hendrickson, Maria and Harriet Ann, those that came with her, did not partake of the dinner. She took tea there, as near as I can recollect, about 4 o'clock; it might have been as late as five.

Question by Mr. COLVIN.—Did she express a desire, while at your house, to go home to her mother's?

Objected to by Mr. WHEATON as incompetent.

Objection sustained by court, and question ruled out.

Question by Mr. COLVIN.—Do you know of Hendrickson's wife giving him money at any time?

Objected to by Mr. WHEATON as irrelevant and incompetent.

Objection sustained by the court.

She went home immediately after tea.

Cross-examined.—Were about half done dinner when she came in; she came in very lively and threw off her things; the others said they had taken dinner, and she said she was hungry again; she didn't take a seat at the table; I came to the table, and asked her if she would take a sausage, and she took it; she ate quite a piece of johnny-cake; she ate apple sauce; I don't recollect that she ate anything else; she stood by the table five minutes, and perhaps longer; I never saw her have a "fit."

Hester Louck, called by prosecution—says : I knew Maria, prisoner's wife ; I saw her on the Sunday night preceding her death at church ; I asked her "how she did," she replied "she was well ;" I can't say how long I conversed with her ; it might have been two, three or four minutes ; she appeared lively and well ; it must have been eight or nine o'clock.

Cross-examined.—I met her in the church after the service was closed ; we stood in the aisle by the stove ; she laughed and talked.

William Springsteed, called by prosecution, sworn—says : I reside in Albany ; keep a drug store ; partner of Mr. Bullock ; I know the prisoner ; have known him three or four years ; I recollect of hearing of the circumstances of prisoner's wife on Monday following her death ; the prisoner was in my store the week previous to her death ; it was on Tuesday or Wednesday ; Mr. Haswell was in the store at the time ; Jeremiah Haight, my partner, Mr. Bullock, and a little boy we have for a clerk, Isaac Redfield, were also in the store ; he came into the store on the Pearl-street side ; I waited upon him ; he came in and said, "How do you do ?" I said, "Very well ;" I was behind the counter, and he was on the outside ; he inquired of me for "*prussic acid* ;" I told him "we hadn't any ;" he asked me "where he could get it ;" I told him "I thought he could get it of Mr. Burroughs, or Dexter & Nellegar ;" both are druggists ; Burroughs keeps on the corner of Plain and Pearl-streets ; Dexter & Nellegar keep on the corner of North Pearl and State streets ; he went out of Lydius-street door and went up Pearl street ; he had on a blue overcoat and a cap ; his face was rather flushed.

Cross-examination.—I believed the facts of my deposition to be true at the time I signed it ; I swore before Esquire Cole ; it was the fore part of the week, I swore before Esquire Cole ; I didn't know what month it was when I swore before Esquire Cole ; I couldn't tell whether it was in the month of December or January ; I don't remember that I swore before Cole that there were no persons present except Mr. Bullock and the boy ; I swore before Cole it was the week previous to the death of prisoner's wife ; I swore before Cole that from the fact of having seen him with a blue overcoat and plush cap, that I believed he had the same on at this time.

He was in the store about two or three minutes ; he was in the store no longer than to put the inquiry to me, receive the answer and walk out ; I am sure it was not muriatic acid he asked for ; can't tell the color of his cap ; can't tell the material of the cap ; I saw his brother Matthew pass the store the same time the prisoner came in ; I was sitting in the back part of the store, by the stove ; they were together ; I don't know that I remember it now better than I did then ; I am sure that it was not in January ; I am positive of this ; nor in December ; I don't recollect the day it was that I was examined before Squire Cole ; don't remember of having conversation with Jerry Haight or Mr. Haswell about the time I was sworn before Cole ; think I have since that time ; when I was before Cole, I wouldn't swear as to the day ; I was indefinite in my mind at that time as to the day when prisoner was at my store ; I didn't see

Matthew that day after he parted from his brother ; I saw prisoner cross Lydius-st ; I am sure Jerry Haight was in there at that time ; I will not swear positively whether it was on the 1st or 2d of March ; the first suspicion I had against the prisoner was on Monday afternoon ; I will not swear positively ; I think I did ; I think it was before the sheriff brought prisoner to town that I first mentioned it ; first mentioned it to my brother ; prisoner's face at the time he was in the store was not redder than usual ; there was nothing about his manner that excited suspicion.

Direct examination resumed.—I have taken some pains to discover the day ; when I was examined before Squire Cole I did not know the month or day Mrs. Hendrickson died ; it was about half past 1 or 2 o'clock the day I saw him ; my attention had never been directed to the day of the month Mrs. Hendrickson died, previous to my examination before Squire Cole.

Cross-examination resumed.—I did not state before Squire Cole the time of day prisoner came into the store ; I had just returned from dinner ; I dine at 1 o'clock ; Mr. Bullock was in the store when I left, and I think the clerk ; don't remember how long I was gone to dinner that day ; Mr. Bullock and the clerk were there when I got back ; think Jeremiah Haight was there ; saw Mr. Haswell come in some 4 or 5 minutes after I returned ; I have a recollection of Haswell coming in, and the prisoner shortly after ; I have no recollection how long Haswell was in there ; I was in conversation with Haswell when prisoner came in ; since my examination before Squire Cole I have inquired what day Mrs. Hendrickson died, and looked to see what day the 1st of March came on.

William G. Burroughs, for prosecution.—I am a druggist and apothecary ; my store is corner South Pearl and Plain-streets ; I recollect hearing of the death of prisoner's wife the week following inauguration week ; on that week I sold tincture of aconite to some person ; I mean the week of the inauguration ; it was to a man, dressed like a countryman ; he had on a blue coat and a cap ; it was a common cap, of a rusted, faded color ; it was between half past one and three o'clock ; he came in, put down a vial, and asked for sixpence worth of aconite ; I filled the vial (an ounce vial) for him, and labelled it "*aconite* ;" I saw part of the person's face ; he had a flushed face ; he was a young man, light hair, no beard ; I mean, by beard, he had no whiskers ; he was a good sized man.

Q. What do you say as to the prisoner's being the man ?

A. The prisoner resembles the man, except as to his countenance ; by countenance I mean his complexion ; what I mean by flushed is sunburnt, tanned ; it is a hard color to give ; he came into the store as if in a hurry, and I waited upon him, under that impression, as soon as possible ; no conversation took place between us more than his asking for the article, which he paid for and left ; his chin was down on his bosom ; I prepared the tincture he bought ; from one to eight drops is a medicinal dose ; one ounce taken by a person would produce death ; it was prepared from the root by pouring alcohol on the root ; it requires 14 days to mature it ; the root was bruised ; I made half a gallon ; it was called tincture of aconite ; it was an ounce of this preparation which I sold, as stated.

A blue coat and plush cap were shown to witness, which he stated corresponded to the coat and cap worn by the party to whom he sold aconite, as above set forth; the cap is the nearest like to anything I have ever seen, or could pick out or describe.

Adjourned till 3 o'clock.

AFTERNOON SESSION.

W. G. Burroughs—Cross-examination.—I was examined before Squire Cole, I think after the 15th of March; cannot name the exact day; it was a pretty long examination; I cannot tell the day of the week or the day of the month; I sold the aconite to a person in a blue coat; I will swear that it was before the 12th day of March; my memory is better now as to what took place the fore part of March than it was in the month of March; my memory is refreshed from the fact that Mr. Brainard called at the store to see if there had been any prussic acid sold; my memory is strengthened from that fact, and the conversation had with my clerk; it might have been about three weeks before my examination before Cole that I sold the aconite; nothing has taken place since my examination before Cole to strengthen my memory; I remember better now than I did on my examination before Cole, that the person wore a cap; I don't know as I remember any more distinctly now about the coat than I did then; the man who bought the aconite was about my size; when he bought the aconite he was standing up; I stood facing him, the other side of the counter.

I did swear on my examination before Squire Cole, that I thought it was a cloth cap the man wore; the cap I said might have been broadcloth, or might have been plush; it resembled plush; I can't say now, after seeing the cap, whether the man had not a cloth cap on; I had sold aconite that winter to somebody else; I sold about half an ounce to a woman; cannot tell within a month when I sold it; do not recollect having sworn before Squire Cole that I had sold aconite to a man and a woman, within a month of the time I sold some to this person; it was in December or January I sold it to the woman; she was dressed in dark clothes, and was a lady I was acquainted with; I cannot tell her name; she resides in town; I can't tell where; I kept an account of sales in March; in it I minute down everything sold I think of; I have looked over my book to see if I have an account of any sale of aconite in March, and can find none; I prepared the aconite as early as last June; I had sold, up to March, not to exceed two ounces; I can't say whether it was before or after Presidential Inauguration that I sold the aconite; I will swear positively that it was within six days after the inauguration; I did before Squire Cole swear that I would not say positively that it was within five days after the inauguration; I did swear that it might have been a black cap; I do not call the cap shown me black; I swore before Squire Cole that I could not give an accurate description of the coat; I did say before Squire Cole that I could not swear that I ever saw the prisoner until I saw him then present at the examination; the man that bought the aconite was more tanned and sunburnt than the prisoner appears to be now; the

fact that the person who bought the aconite held his head down, occurred to me before I was called to swear before Squire Cole ; I noticed it when he bought the aconite ; there was nothing in his conduct which made me suspicious that he bought it for a bad purpose ; if the cap had a front-piece, I did not see it ; I swore before Cole that I did not know whether the cap had a front-piece or not ; I swore before Squire Cole that I could not describe the dress of the person who bought the aconite, because I paid but little attention to it ; I was first shown the cap and dress in the Grand Jury room ; he held his head down, his chin on his breast during the time he was in the store ; I did swear that the person who bought the aconite had a nervous complexion ; the account I gave of his appearance before Squire Cole was the best I could give at that time ; when he held his head down, he appeared to be looking at articles on the counter ; I do not recollect now any better how he looked than I did when examined before Squire Cole.

Direct examination resumed.—When examined before Squire Cole I did not know what day of the week inauguration day came on ; I have since ascertained ; it came on Friday ; Brainard was in my store inquiring whether any prussic acid had been sold there the Tuesday or Wednesday following. It was the latter part of the week I heard of the death of Hendrickson's wife ; I am positive that the aconite was sold inauguration week ; I sold this aconite the week previous to Brainard's calling to ascertain whether I had sold prussic acid ; by a nervous complexion I mean a light skin and light hair ; I did swear before Squire Cole that the person to whom I sold aconite was of light complexion and light hair, to the best of my recollection ; the reason I did not keep an accurate account of all my sales during inauguration week was, that I was very busy writing up an inventory ; another reason was that it was the small matter of a sixpence ; I find no memoranda of having sold aconite previous to that week ; I have not looked back so far as the time I sold to the lady.

Cross-examination resumed.—As much as one-third of the sales in my store are as low as a sixpence ; it being only a sixpence, and my being very busy, were the reasons why I did not note it down ; I took my inventory on the first of February.

Maria E. Schoonmaker, for prosecution.—I reside at Bethlehem ; know the prisoner ; have known him three or four years ; in the winter of 1852, I met him at Veeder's, a public house about four miles from the city ; it was in February.

(The further examination of this witness was here objected to by the prisoner's counsel. This is the young lady referred to in the District Attorney's opening, between whom and the prisoner an interchange of rings and the giving of his daguerreotype took place. After a brief discussion, the court, not deeming the facts sought to be proved by her of sufficient weight at this stage of the case, she was set aside for the present.)

Patrick Casserly, for prosecution.—On the 7th March resided at Jeremiah Meads' ; recollect hearing of the death of Hendrickson's wife the same morning it occurred ; I recollect Mr. Oliver coming to

Mr. Meads' that night ; this was after the clock struck 1 ; I slept over the clock ; I recollect Matthew Hendrickson coming there ; it was about an hour and a half after Hendrickson came ; it might be more.

Cross-examination.—The clock was under the room that adjoined the room that I slept in ; there were people up in the house ; the clock they said was about an hour too fast ; I heard it strike one ; I got up when Matthew Hendrickson came ; I dozed till he came ; I did not hear the clock strike in the mean time.

David Springsteed, for prosecution.—I am a physician in this city ; I knew Maria Hendrickson, prisoner's wife ; I have attended her ; I made my first visit to her in January, 1852 ; I administered medicine to her ; saw her again a few days after, about four days ; I saw her again about the last of January ; prescribed for her several times. (Further examination postponed.)

Adjourned till to-morrow (this) morning at nine o'clock.

FIFTH DAY.

FRIDAY MORNING, June 17.

Dr. John Swinburne, for prosecution.—Am a physician and surgeon, residing in Albany ; have been in practice six or seven years ; my practice as surgeon has not been very extensive ; surgery has reference to the living, and anatomical researches to the dead ; the major part of my leisure time has been devoted to anatomical researches ; I mean that most of such time has been occupied in the dissection of dead bodies.

Counsel for the defence here objected to the further examination of the witness at this time, inasmuch as the defence were taken by surprise in his being now called, and they were desirous of having other physicians, who would be called for the defence, present during his examination.

The further examination was postponed for the present.

Aaron Palmatier, for prosecution.—I was at Meads' house on the Sunday night of Mrs. Hendrickson's death ; it was after 2 by Meads' clock when Oliver came there ; did not notice the hour when Oliver and myself left ; heard the clock strike before Oliver came in ; it struck two ; he remained one or two minutes ; I went away with him ; I was in the room where the clock was.

Cross-examined.—There was a young lady with me ; cannot tell whether time passes rapidly or not on such occasions.

Dr. John Swinburne—Direct examination resumed.—I saw Maria Hendrickson after her death ; I think it was about dusk on the 7th of March, at the house of Mrs. Van Dusen, at Clarksville ; Coroner Smith went with me ; I was two years in charge of the anatomical department of the Albany medical college ; for the past three years I have had a private dissecting room at my own house ; I have performed many of the post mortem examinations for the authorities of the county of Albany, for the past five years ; on the evening of the first visit, which was Monday, I merely saw the face

of Mrs. Hendrickson ; I noticed it was extremely pale ; the lips had a blueish appearance ; the features did not appear like those of a person dying of ordinary causes ; there was a greater pallor ; the blood had forsaken the skin and cellular tissues, giving almost a transparency of countenance ; the countenance appeared very calm ; there was no distortion ; not knowing the deceased before death, I should say that the features were slightly swollen ; this expansion appeared something like those cases where water had taken the place of blood ; otherwise I saw nothing that evening, more than we find about all dead bodies ; I did not examine her mouth ; I saw her again the morning of the 8th about 8 or 9 o'clock ; I then went to the house in company with Coroner Smith for the purpose of making a *post mortem* dissection ; about that time, or soon after, Dr. Ingraham came in ; we procured boards, took the body from the coffin and commenced the dissection ; our attention was first called to the extensive suggillation or settling of blood in the posterior, and half of the body, and in the neighborhood of the hips and chest ; nearly two-thirds of the way round ; we then noticed the extreme rigidity of the muscles ; the arms were across the chest, and we had to straighten them ; the force required to do so was considerable ; I also noticed that there was not only rigidity, but also elasticity about the muscles ; I noticed the same muscular rigidity about the legs, and the same about the muscular system in general ; I noticed particularly the muscles of mastication about the jaw ; the teeth were full a quarter of an inch apart ; I attempted to open the mouth, but did not succeed ; the muscles about the neck were so stiff that in the *post mortem* examination of the brain, the body would be raised with the neck in the attempt to bend the head so as to get at the brain ; I also noticed in this connection that the skin, the fat, and the cellular tissues were as soft as the weather would permit of ; I noticed this, because of the extreme rigidity of the muscles in comparison with the soft parts above mentioned ; this was all we noticed previous to making the dissection ; we then opened the cavity of the abdomen and chest at the same time ; we found the lungs and heart healthy ; found the heart empty, except a small clot in the right auricle ; found the large veins (cavas) partly full ; I should say not to exceed two ounces of blood ; this was dark and fluid ; proceeding further, we tied the stomach at both extremities, and took with it a portion of the duodenum ; we removed that and placed it in a bowl ; I here noticed that the small intestines were empty ; found the liver healthy—the gall-bladder healthy, but not more than half full ; we next proceeded to examine the bladder and womb ; found the bladder healthy, and contracted to about two inches in diameter, and perfectly empty ; found the womb enlarged, hardened, and slightly ulcerated about the mouth ; this enlargement was, I should think, full twice its natural size—I mean of a virgin womb ; the internal cavity of the womb was several times larger than it should have been ; noticed also an adhesion of the womb to the small intestines, about an inch in extent ; also, adhesions back to the *rectum* ; found the *ovaries* enlarged about twice their natural size ; one of these *ovaries* had a small clot of blood near its centre, I should say about half the size of a hazel nut ; this must have been

there some time; the ovaries in question occupied a position about an inch from the womb, instead of their natural position, about two inches and a half from it; these bodies are protected by a fold of the *peritoneum*; the other ovary adhered to the womb, in a lower and lateral position; we then examined the *spleen* and the *pancreas*; the latter is the gland which secretes the fluids which assist in digestion; the spleen is one part of the body for which no use has been found; both these organs were healthy; we then examined the brain; on laying back the skull cap (*calvarium*), the bony portion, we found the *dura mater* adhering considerably to the skull; on laying back the *dura mater*, we found the small veins of the brain full of blood; we found slight opacity in the arachnoid membrane; this was, probably, the result of a former inflammation; in its healthy state, it is nearly transparent; this opacity was near the top of the skull; directly under it, we found an adhesion, to a small extent, with the *pia mater*; the large veins (*sinuses*) of the brain were empty entirely; the brain itself was not congested; the brain itself was healthy; on laying down the head we discovered the bruise upon the lip; it was somewhere between the size of a sixpence and ten-cent piece; was black and blue (*echymosed*); it was inside of the lower lip, a little to one side; in this bruise there was a cut about a quarter of an inch in length; it must have occurred before death; in this connection I noticed the appearance of the tongue; it was swollen, and very white—decidedly so; I made an attempt to separate the legs; the muscles were so rigid that it required considerable strength to get them apart; I did not persist in the effort to do so; I examined the whole of the base of the skull, and the brain also, as far as the second cervical vertebrae; the skull, brain, and spinal chord, as far as we examined, were healthy; we severed the spinal chord at the lower margin of the second cervical vertebrae; the external surface of the stomach and intestines were slightly congested; there are three coats to the stomach and intestines, the peritoneal, the external one; the muscular, which is the middle; and the internal, or mucus coat; the stomach was contracted to about two inches in diameter; a healthy natural stomach would be five to eight inches in diameter at the largest part; he referred in both cases to an empty stomach; found the mucus coat very much corrugated, that is wrinkled up, being in folds; it was congested, the small vessels being filled so as to make the surface very red; the mucus coat was also lined with a thick reddish viscid mucus; there was no appearances of bile, or any natural contents; by natural contents, I mean what you expect to find in a natural, healthy stomach; I examined the *æso-phagus* just before it enters the stomach, and found it congested; it leads from the throat into the stomach; besides what I have before stated, we found in the stomach two little yellow substances, about quarter the size of a pea, of a cheesy appearance; this is all I found in the stomach and *æso-phagus*; I handed them to the Coroner; the folds at the extreme ends of the stomach seemed to be circular; in the centre more longitudinal; I should say that all of the reddish mucus which was in the stomach would not exceed two ounces; the stomach was much thicker than what it should be in a natural condition; I examined a portion of

the duodenum and found it more congested than the stomach ; it was redder in its appearance ; the mucus coat was corrugated, but less than the stomach ; the duodenum was smaller than natural ; the size of the duodenum differs, in persons of different conditions, as to health, size and other circumstances ; the intestines of a female are generally smaller than those of a male ; there was no *fecal* matter or any appearance of it in the duodenum ; chyme is food in a process of digestion ; there was no appearance of anything like *natural* matter in the duodenum ; cannot say the amount of mucus matter found in the duodenum ; it was hardly enough to flow out, had the duodenum been in a proper position ; I gave the stomach and duodenum to the coroner—nothing else at that time.

I made a further post mortem examination, I believe on the following Sunday ; Coroner Smith was with me ; I then removed the remainder of the small intestines, with the exception of about six inches of the rectum ; examined the kidneys and found them healthy ; noticed that the urinary bladder still remained contracted ; removed about four ounces of blood from the cavity of the chest ; placed it in a vial and gave it to the coroner ; I corked it up ; there was not at this second examination over half a pint of blood in the chest ; it was what had flowed in from the surrounding tissues ; there was very little of it when I left it the first time ; I removed one lung, it was healthy ; a portion of the liver, and a portion of the pancreas ; put these in wide mouthed jars, with paper over the top and covers on them ; on removing the small intestines they appeared perfectly empty ; I put them in a jar by themselves ; in the first examination of the body, I had cut into the cæcum, the only point where I could discover anything which appeared like fecal matter ; this matter, it was discovered afterwards to be composed of feces, a piece of lemon seed, and several other seeds of different kinds ; small sized seeds, some like onion seeds ; these I gave to the coroner ; I think there was from four to six ounces of this fecal matter in the cæcum ; I felt in the colon what appeared to be small pieces of hard fecal matter ; did not examine the color ; I opened the six inches of the rectum remaining and found it healthy ; in cases I have examined with a view to find the diameter of the urinary bladder, I have generally found them from three to four inches ; I noticed all the vessels in which the different parts were placed.

I believe I have described every organ as healthy, except the womb, so far as organic disease is concerned.

Q. What do you say as to there being any cause for death in the womb ?

A. 'There was no cause for death in the womb.

Q. Where was the cause of death, if anywhere ?

A. In the stomach and bowels.

Q. In your judgment, what was the cause of her death ?

A. *Acrid* poison ; I base it on this : I find entire emptiness of the stomach and small intestines, so far as fecal matter is concerned ; also contraction and corrugation of the same to a great extent ; I find in place of that, a reddish *viscid* mucus adhering to the coat of the

stomach and intestines ; the emptied condition of the gall bladder ; the appearance of the tongue, which was very much furred and slightly swollen ; I inferred from these that vomiting had taken place, and that too induced by some acrid matter, which would not only expel the contents of the stomach, but of the small intestines, and the presence of which acrid matter would induce the vomiting.

Q. What would induce your belief that she vomited ?

A. I believe the act of vomiting is accompanied by more or less contraction of the stomach ; where that act is induced by the presence of acrid matter, the contraction will be proportional to the material used, be it more or less irritating.

I would state in reference to this corrugation, or any corrugation, that it would depend in part on the contraction of the muscles, and in part owing to the irritating matter which is applied to the mucous surface.

Q. What do you say about the rigidity of the body ?

A. The rigidity of the body presented the appearance of a person who would come to their death by anything which would produce a sudden spasm or contraction of the muscles.

The appearance of the stomach and intestines proved to me conclusively that she had vomited, and to such a degree that could not be produced by ordinary causes ; I will further state that I think the vomiting must have been not only considerable, but that effort at vomiting continued until exhaustion took place. My reasons are these : the blood in the first place was thrown from the centre to the surface ; also the extreme pallor of the countenance, which always attends exhaustion from vomiting.

Q. What was indicated by this extreme contraction after death ?

A. The muscles of animals poisoned by aconite continue contracted for some days after death.

Q. Will you state, in your judgment, from what poison she came to her death ?

A. I have seen experiments practised by Dr. Salisbury upon dogs and cats with tincture of aconite, and the appearance after death of general rigidity, contraction of the stomach and intestines, absence of fecal matter, and the presence of this red mucus, the fluidity of the blood, and indications that they had vomited ; I suppose that the deceased died from aconite, from the fact of the appearance on the post mortem examination being so identical with those of the dogs and cats.

Q. What is the strength of your opinion that she died of poison ?

A. I have no doubt of it ; I have no doubt she vomited ; one of my reasons for thinking she died of poison was her having vomited, and also the absence of congestion ; I have performed nine post mortem examinations since her death ; two were cases where death had occurred from poison ; one by *corrosive sublimate*, and the other by *morphine* ; the others were cases of sudden deaths in full health.

Adjourned till 3 P. M.

AFTERNOON SESSION.

Dr. Swinburne—Direct examination continued.—Had Mrs. Hendrickson died of natural causes, more or less natural contents would have been found in the small intestines, and they would have presented a healthy appearance—relaxed instead of contracted, and an absence of this reddish mucus; also, the circulating system would have presented a different condition. In all the forms of death by asphyxia, syncope, apoplexy, epilepsy, and all the other forms of convulsive diseases, you have fullness or engorgement of the heart and all the important viscera. My post mortem examinations, since the death of Hendrickson's wife, have been made with a reference to the whole system, having this case in view; I have some knowledge on the subject of poisons; in my post mortem examinations have had some experience as regards them; have read upon the subject of poisons; have examined cases reported; have noticed these cases in comparison with deaths from natural causes; also have noticed cases of death from one kind of poison and another; since this death has taken place I have made two post mortem examinations of persons who died by poison; have seen the bodies of two animals—a cat and a dog—which were destroyed by different poisons; the examinations I have made have had more reference to the stomach and bowels; from my reading, knowledge, and experience, am prepared to express an opinion as to what caused the morbid condition of the stomach and bowels; it was aconite, or the principle of aconite; I think, had the poisonous matter passed off with any of the fecal matter, the rectum would have presented the same appearance as the intestines, only in a less degree; can assign no possible way, except by vomiting, how the fecal matter could have been removed.

Q. What external appearances would you look for, where death had been caused by aconite, in three or four hours?

A. Should expect to find rigidity of all the voluntary muscles; also, extreme pallor from vomiting.

Q. Do you know of any natural disease that would produce vomiting, and leave the stomach in this state?

A. I do not.

The prisoner was examined before the coroner's jury in the evening; I was present; it was previous to the post mortem examination; the prisoner was on oath; he was called up and sworn as other witnesses are.

Q. What account did the prisoner give before the coroner's jury of the death of his wife?

A. He stated that he went to church in the afternoon; returned home in the evening; that his wife complained constantly of pain; that she complained of not having a passage for two weeks, and of great pain as a consequence; that she had been in her usual health, and partaken of her food as usual; that after coming from church she complained of more pain than usual; particularly that evening; the pain was confined to the hips and loins; that between ten and eleven o'clock they retired to bed; they laid and talked about an hour; she then requested him to turn over and stop talking, as she wanted to go to sleep; they then went to sleep; between the hours

of two and three he was awoke by the noise of the horses in the barn, and found his wife occupying the centre of the bed, and that he was against the wall; he said "Maria, lay over, you have more than your share of the bed;" he then shook her, and she did not stir; he then felt of her face, and found it cold; he thought her dead; he then hallooed loudly for the family to come up, as there was no light in the room; he sat up in bed, and waited till the light arrived; when interrogated as to having been in Albany, he said, "two weeks ago last Saturday," he had been there; and when asked if he had not been there since, he said, "Oh yes, I believe it was a week ago last Saturday," as if correcting himself; when interrogated still further as to whether he had been in since that, he then said, "it was last Saturday;" on being questioned what he went to Albany for, he said it was with a load of saw logs or timber; after unloading the lumber they came up and stopped at Conner & Winne's, from there they went to the Knickerbocker Saloon, from there to Miles' hardware store, thence back to the Knickerbocker, thence back to Conner & Winne's, and he said he could not remember of going to any other place in Albany; said he did not remember of being in Springstead & Bullock's, or any drug store in Albany; did not know that there was any drug store on the corner of Plain and Pearl; knew that Dexter kept a drug store corner State and Pearl; had not been in there, and stated that from Conner & Winne's they went home; when asked whether he had been in a drug store, he looked up as if startled at the question; he hesitated, and finally did not remember.

Cross-examined.—I am 33 years of age; am a native of Lewis county; my medical education, most of it, was at the Albany medical college; I began in the spring or summer of '42; commenced with Dr. Sweet, of Fairfield, Herkimer county; was with him about a year; had learned no other business before I commenced medicine; from Dr. Sweet's I came to Albany, and went into Dr. Armsby's office; was there between two and three years; was admitted to practice in January, 1846; have had as much general practice as any young man, I think; for the last three years have had as much as I could attend to; I mean a general practice; this is the first case of trial for murder by poison where I have been called to appear; I have never seen a person laboring under the effects of aconite, or a person who had died from it, except this case; have read several books on medical jurisprudence—Taylor, Beck and Dean; don't know that I have ever read in any of the books that no physician should ever give evidence of the death of a person from poison from the mere appearance of the body on a *post mortem* examination; think a prudent person *would* give an opinion of the death by some poisons on the evidence furnished by a post mortem examination; should think a person could give evidence of death by aconite merely from the inspection of the person after death; have read Taylor's Medical Jurisprudence on the subject of aconite, other books and reported cases; read one book of reported cases ten days ago; Geoghegan reports his case, and cites one or two others; had not particularly noticed the subject of aconite as a poison before employed in this case; I do not suppose I have spent

in the whole more than three days in studying this case ; I use acornite as a medicine in the form of a tincture ; do not know whether the profession use it much ; I have used it considerably ; I have generally directed from one to five drops as a dose ; reached the house where the dead body lay just about dusk, in company with the coroner ; don't remember seeing the prisoner at that time ; he was sworn the same night about eight o'clock ; think he was the first witness sworn ; I acted as clerk and took the testimony ; gave my minutes to the coroner ; have looked them over within a week's time—the only time, I believe, I have done so ; the body was not in the room where prisoner was sworn before the coroner's jury ; I think the coroner questioned him ; no one else that I recollect ; he went on at request of the coroner and gave an account of what occurred ; all I discovered about the body that night was an appearance as though the face was swollen, and the pallor of it ; I staid in that neighborhood that night, so as to commence the post mortem examination the next day ; we commenced about 8 o'clock in the morning ; I think there was something remarkable in the extreme rigidity of the muscles ; I presume the muscles of a dead person arrive at their full rigidity in thirty or forty hours ; I never discovered the elasticity of the arms, which in my direct examination I spoke of, in any subject that died from natural causes ; I have seen it in cases of drowning ; I may mention death by spasms ; I did not succeed in opening the mouth of this subject with my hands ; I have never known cases where I could not succeed in opening it before ; I have no recollection of my attempting to open the mouth of any subject which has been dead about thirty hours ; we always look into the mouth ; the muscles of the jaw are very strong ; the bladder of a subject, when there is nothing in it, is from three to four inches in diameter ; I have noticed it particularly in the last nine cases I have had ; I did not measure Mrs. Hendrickson's, or any of the others, but speak merely from the eyes ; the diameter of a healthy stomach, when entirely empty, seldom measures less than five inches in its widest part ; the only difference in the size of them, when filled and when empty, is, that in the former case the sides come together ; never heard of a person dying of pure hysteria ; redness of mucus membrane is not peculiar to cases of poison alone ; an indication of poison was the extreme corrugation of the stomach ; I know of no natural diseases which would corrugate the stomach to the extent found in this case ; in cases of sudden death the stomach would exhibit redness, if there was a sufficient quantity of natural food in it to irritate it ; there may be cases of sudden death where the stomach displays redness without sufficient food to irritate it ; it cannot be any great degree of redness without there be sufficient food to irritate it ; I believe it is a settled fact that inflammation never takes place without the presence of an irritant ; none, except from the presence of some irritant ; the duodenum is sometimes inflamed from natural causes ; a man that is hung might have extreme redness of the internal coat of the stomach ; asphyxia and sudden death may produce redness of the stomach, but not extreme congestion ; I do not think sudden death can ; in cases of sudden death, where the stomach is full, extreme congestion might be produced by the food, and the acid generated by it ; the vascular fullness of

the lining membrane of the stomach, whether red or dark, is no certain evidence of disease in the stomach; I think this redness, in a healthy stomach after death, is produced by the acids generated by the food; I have had this subject under consideration for some six weeks; I made a post mortem where this subject was brought before my consideration.

Adjourned till nine o'clock to-morrow (this) morning.

SIXTH DAY.

SATURDAY, June 18.

Dr. Swinburne recalled on cross-examination.—Have read no book on aconite since he was on the stand last night; don't look upon the redness of the stomach as the necessary consequence of death by poison; don't think this appearance would have been exhibited after sudden death, unless food or poison was present; food, of itself, undigested, would not redden the stomach, unless it was of an irritating character; in cases of asphyxia, there may be redness of the coats of the internal organs, but it would not, in all cases, be caused by sudden death by asphyxia; during the process of digestion, the stomach has more blood than at other times; when a person dies of asphyxia, the blood remains where it may be at the time of death; the stomach is not congested by the effort of digestion; if there was no more blood in the stomach at the time of death than was required for the purposes of digestion, I would have to call it congestion, if I followed the opinion of authors; but this is not my own opinion; I would not call it congestion; the presence of food may produce two conditions—redness from the digestive process, and a slight congestion produced by the presence of acrid matter, generated by healthy food; did not say that *congestion* of the stomach would only be produced by poisonous matter; I said *inflammation*; the stomach of the deceased was congested; healthy food may generate gases in the stomach which would produce just such appearances, so far as simple congestion is concerned, as was exhibited in the stomach of the deceased, but he knows that it would not produce equal corrugation, or folding up of the stomach; have never seen the stomach of a person dying from natural causes as much congested as the stomach of the deceased; if such a stomach was as much congested by acids produced by healthy food, I do not think it would be equally corrugated; the inner coat of the stomach of a living subject is said to be covered by a viscid fluid; the fluid in the stomach of the deceased he knew to be unhealthy, because it was so tenacious, and adhered so firmly to the stomach; have never seen anything that appeared like viscid fluid adhering to the coats of the stomach after death from natural causes.

If a person died of inflammation of the lungs, viscid mucus might be found in the lungs, but not in the stomach; nor in cases of death from congestion of the stomach would there be any more mucus in it than from death by other causes; congestion may possibly throw out mucus, but he had never seen it; where congestion had continued for some time, my opinion is that the mucus would not be colored

red ; have never seen nor read of it, as a consequence of congestion. The mucus coat of the stomach may be corrugated without the contraction of the muscular coat ; the two coats can contract independently of each other, but the villous coat can only contract by the application of an astringent or stimulus ; they would shrivel, but not fold up the villous coat, as I found them in the deceased ; the absence of bile from the stomach is no evidence of death from poison ; the color of this viscid fluid in a healthy, living subject, is described as white ; I thought the fluid in this stomach was unhealthy, because so tenacious and colored ; I never have seen viscid mucus in a stomach after death by natural causes ; I have never seen mucus clinging to the coat of the stomach ; I won't swear that it exists or does not ; if a subject die of inflammation of the lungs, we might find viscid mucus in the lungs, but none in the stomach ; in cases of congestion of the stomach alone, we would not expect to find any more mucus than we would from natural causes ; congestion may throw out mucus, and consequently we may be able to find it in the stomach ; it may be so, though I do not think it ; in cases where congestion had continued some time, it is my opinion that this mucus would not be colored ; I believe it for this reason : I have never seen congestion existing except it be formed by food or acrid matter. The answer was here interrupted, when witness said : I have never seen it or read of it ; there was a contraction of the stomach ; this is different from the corrugation ; the villous coat of the stomach can be corrugated without the contraction of the muscular ; this coat has power of contraction independent of the muscular coat ; the villous coat can contract and relax independent of the muscular coat ; the villous coat has no power, of itself, to act, except by the power of an astringent or stimulant ; this produces an effect to corrugate and shrivel ; in order to fold up, as I found it, it was necessary for the muscular coat to contract ; I do not know that an astringent would cause the muscular coat to contract ; I found no bile in the stomach ; it is not usual to find bile in a stomach, where there is sudden death ; the absence of bile is no evidence of death by poison ; I did find two small substances of a cheesy appearance in the stomach ; I account for these alone remaining by their being ensconced in the folds ; I believe that all the contents of the stomach and small intestines could be thrown up, and not a particle or trace of it be discovered in any part of them (the Doctor here cited a case in support of his position) ; I have never seen or heard of but one case, where the contents of small intestines were emptied through the mouth, in which purging did not take place ; where there was no twist in the bowels there might or might not be such a case ; *Fleming* is one of the best authors, I suppose, on the subject of acnite ; to have emptied the stomach and intestines, as they were in this case, would take different lengths of time, depending on the cause ; it might be done in an hour ; the entire quantity of contents in a healthy person, in the stomach and small intestines, down to the colon, would be from a pint to two quarts ; have known them emptied by vomiting down to the middle of the illium ; I refer to poison by corrosive sublimate ; I do not remember of any cases of their being emptied, as in this case, without obstruction ;

I did say that I thought vomiting in this case continued till exhaustion ; had I gone into the room immediately after her death, and seen no stains or evidences of vomiting, or anything to show it at all, I should rely upon the evidences of her having vomited sufficiently to swear to her having vomited, with the same data as in this case, i. e., she was in good health and had eaten 10 or 11 hours previous to death ; the absence of these stains would not affect my opinion ; aconite produces a very violent sensation of burning upon the palate and throat, and constriction ; it would be felt for perhaps half a minute after swallowing ; I suppose a person, feeling this, would be likely to cry out, if they could ; the effect of aconite is to produce more or less restlessness ; the most violent retchings are required to remove the contents of the small intestines ; these retchings might have been heard in parts of that house ; a healthy stomach might expel its contents in about 3 or 4 hours ; considerable portions of the fecal matter would remain in the small intestines twenty-four hours ; I have found food remaining in the small intestines four days after taken, the subject living that time ; the subject was in the hospital, and was confined to his bed ; do not cite this as a just parallel to one where the subject is healthy and moving about ; have examined cases ranging from six to twenty hours after food was taken ; I am of opinion that there may be more or less fecal matter in a healthy person, after the expiration of four days from taking food ; I had one case of sudden death, from disease of the heart ; he took his breakfast, and about 12 or 1 o'clock took his dinner, which was buttermilk pop ; went into the yard and died instantly ; we found a quart of what he had for dinner in his stomach, and a quart of feces in small intestines ; this shows that fecal matter will remain in the small intestines seven hours. (The Dr. cited another case where death ensued in about 7 hours after the last meal.) He was previously in good health ; he had taken morphine ; there was one quart of fecal matter in the small intestines, and another quart in the large intestines ; there was 1 ounce of fluid in the stomach ; the amount of fecal matter found satisfied me it was the result of 4 or 5 meals ; another case, at the hospital, had been in the enjoyment of good health up to the time of admission, some 4 or 5 days ago ; for the last two days the subject (a woman) took nothing but drinks ; for the last 4 days, no solid substance ; she was confined to bed with inflammation of the womb ; after death from 6 to 8 ounces of fecal matter were found in the small intestines, about two ounces of bilious matter in the stomach ; this was a case where the patient had been purged so far as possible, and yet fecal matter remained.

Q. How do you account for the gall bladder being half full after the vomiting had been so severe as to empty the smaller intestines ?

A. The gall bladder does not become necessarily empty by vomiting, it has no peristaltic action ; it is emptied by compression mainly ; it is more difficult when the bladder is half full to effect the compression ; hence the gall bladder need not be entirely emptied ; I have never seen the gastric juice produce any bad effects upon the coats of the stomach after death ; my impression is that the gastric juice corrodes and destroys the coats of an empty

stomach after death, providing it was present; the effects of the juice in (a living subject) a healthy but empty stomach I suppose would produce redness—would have the effect of a stimulant; the blood can be thrown from the centre to the extremities, as I have previously described, without the brain being congested; the extremities might be congested and not the brain; in case of cholera, where the face is of a leaden hue, it does not necessarily indicate congestion (the Dr. went, at some length, into an explanation of the features of cholera); I discovered the bruise on the lip after concluding the examination of the brain; the lips were closed; I separated them; I discovered the cut on the lip afterwards; my opinion is that this particular bruise could not have been caused after death; I noticed no particular prominence in the lower lip; the cut would correspond with the size of the top of a tooth; this appearance could not be produced after death; my opinion is that this bruise could not have been given ten minutes after death, by the attempt to get something in her mouth to revive her; I think the cut was oblique; the bruise was about a half of an inch, the cut half as long; Dr. Ingraham and the coroner observed it; *aconitine* is the active principle of aconite; I cannot answer whether *aconitine* is an acrid principle, nor can I say if it exerts an irritant action upon the alimentary canal; aconite and aconitine may act differently, upon the same principle that morphine acts differently from opium; I will swear that in aconite there is an acrid principle; he did not believe the remark of Fleming, that aconite has no irritating effect upon the alimentary canal; I have seen several cats killed with it; I killed one myself some three weeks ago; several were present; I have seen a cat that was killed by Dr. Salisbury; besides this I have administered it to a dog which I kept on purpose; I vomited him some twenty different times.

Q. Is he alive?

A. I presume he is; he did not like the treatment, and ran away the other day. [Laughter throughout the court.]

Aconite produces redness, prickling and numbness; one of the effects of aconite is to produce vomiting; the first thing noticed is the intense burning of the mouth and throat, and the constriction; this continues until vomiting, followed by weakness, giddiness, with spasms of the diaphragm, and continued returns to violent vomiting; I should think that the vomiting might be accompanied with purging; in any case where there is extreme vomiting there would be a cold, profuse perspiration; this perspiration is generally confined to the head; can't say whether in the instance of aconite it would prevail over the whole body; I should say the sweat would be the effect of the effort of vomiting, and not peculiar to the use of aconite alone; the effect of the aconite would be to compel one to void their urine; the bladder was empty in this case.

Q. What characterizes the appearance of a person on a post mortem examination who died from aconite?

A. More or less contraction of the entire stomach, corrugation of the mucus membranes—more or less congestion of the mucus coat—deposit of more or less mucus—almost entire emptiness of the stomach and intestines—congestion of the intestines and mucus—the

contraction, in size, of the intestines—emptiness of the gall bladder—contraction of the urinary bladder—general muscular rigidity.

Congestion of the brain and lungs, engorgement of the heart and vessels connected with the heart, are not the most usual attendants of death by aconite, where there is vomiting; did not deem it necessary to see if these characteristics appeared, in order to enable me to judge if she died of aconite; *if aconitine has no irritating action on the alimentary canal, you might or might not find the stomach and bowels congested; no other vegetable poison produces same effects; generally, patients under the influence of aconite are conscious until death; the tongue was very white; I will not say in how long a time it could have come on; I still look upon it as the effect of vomiting; the papulæ of the tongue was standing up, as if by inverted action; I ascribed the whiteness partially to mucus remaining on them; the teeth were wide enough apart to get a fair view of the tongue.*

Direct examination resumed.—Death from aconite will sometimes be produced in a very few minutes, sometimes in several hours; I have no doubt that an ounce, or a good deal less than an ounce, would produce sudden death; the writings on aconite are extremely contradictory, for the reason that few post mortem examinations have been made where death has been induced by this substance.

(The doctor here requested and received permission to cite a case in regard to the time that food might remain in the stomach after eating, as well as fecal matter in the intestines; he had omitted citing it on his cross-examination.) It was the case of James Conley, murdered and thrown into the river, on the sixth of June, 1853; he took his supper at six in the evening, and was killed and thrown in the river (the latter fact sworn to by a boat captain) at three o'clock in the morning; he was previously in good health; the stomach was natural; the mucus coat slightly reddened; the stomach contained eight ounces of undigested food, consisting of veal, potatoes, water, &c.; small intestines were natural, and contained a quart of fecal matter; large intestines healthy, and had about a pint of contents; the gall bladder was full; the evidence is that food could remain in the stomach of a healthy person nearly nine hours without entire digestion; also, that a quart of fecal matter could remain in the small intestines the same length of time after a meal, in the same subject.

The court adjourned until nine o'clock Monday morning.

SEVENTH DAY.

MONDAY, June 20.

At the opening of the court this morning the room was filled with spectators, including a large number of ladies, and many prominent members of the medical profession. With the progress of the trial the interest and excitement is increasing.

Dr. Samuel Ingraham, for prosecution.—Resides at Clarksville, Albany county; am a practising physician; have resided there twenty years, have practised four; I knew prisoner's wife before her marriage; have often seen her since; don't know how long

before her death I saw her ; saw her body about 8 o'clock the evening it was brought to her mother's ; it was at that time in a coffin ; noticed considerable paleness in the face ; there was something on the lower lip resembling a bruise, in size from a quarter to half an inch in diameter ; in the centre there was a cut ; there was a tendency to fullness around the lower jaw ; it was a little more than ordinary fullness ; the paleness was peculiar and noticeable ; pressed the lower lip down ; I saw her the next morning, at the time of the post mortem ; I noticed a settling of blood in the lower part of the body ; I noticed nothing more, externally, except the rigidity of the muscles ; the bowels were considerably contracted ; the calibre of the intestines was lessened about one-half ; the stomach was entirely empty, except the viscid mucus ; the stomach was contracted to nearly half its size ; a viscid mucus was found in the small intestines ; the urinary bladder was considerably contracted, its walls thickened, and near empty ; the gall bladder was more than half empty ; I observed the lungs, heart, liver, &c. ; all these organs, except the womb, appeared healthy ; I should think the cause of death was in the stomach and bowels ; independent of these, I discovered no adequate cause for death, though the womb was diseased ; found the womb enlarged and thickened ; the mouth of the womb also ; the sides of the womb adhered to the pelvis ; the ovaries occupied an unnatural position, one of them adhering to the side of the womb. These appearances seemed to be owing to past inflammation.

Q. What, in your opinion as a medical man, was the cause of her death ?

A. I should ascribe it to some acrid substance introduced into her stomach.

Q. Have you any opinion what this substance was ?

A. It was poison, in my opinion. From the appearance of her stomach and intestines, she must have vomited ; I am led to believe it from the empty state of the bowels, the contraction, and the supposition that she had taken her usual food on Saturday ; the emptiness of the gall bladder would have but little weight in my forming an opinion ; it might have been induced by other causes.

Cross-examined.—Was not very intimately acquainted with prisoner's wife ; the last I recollect seeing her was at a donation party on the seventeenth of February ; did not particularly notice her face at that time ; was examined before the coroner's jury ; testified before them that I noticed that the lips had a bluish color ; don't know why I did not speak of the bruise on that occasion ; I took notes for Dr. Swinburne on the examination ; took them in a book ; no one else took notes, as I recollect ; I intended to take all important points in the case ; left before examination was through ; was gone half an hour ; Dr. Swinburne was examining stomach when I left ; do not know what was being examined on my return ; I saw the small intestines, and also the cæcum opened ; the intestines were much contracted ; never opened any subject in which I did not find something in the small intestines ; saw the seeds spoken of by Dr. Swinburne ; they were taken from the colon ; did not examine them sufficient to say what they were ; did not look like tomato seeds ; they were larger ; between half a dozen and a dozen were taken out ; I

discovered the discoloration upon the arachnoid membrane spoken of by Dr. Swinburne; it was between two and three inches; also an adhesion of the membrane to the pia mater; this was probably produced by past inflammation; do not call that discolored membrane in a healthy state; inflammation of the arachnoid membrane is a very painful disease; do not know how dangerous the disease is; I should think this state of the membrane and adhesion would produce headache; but don't know that it would continue to produce pain through life; have never seen a case where the small intestines were entirely emptied by vomiting unless accompanied by purging; have never read of a case where the contents of the intestines were emptied through the throat and mouth, unless accompanied by obstruction; have never known or heard of a case where the food and fecal matter were entirely ejected through the mouth, and not leaving a trace behind; from the appearance of this subject, I can draw an opinion as to the fact of vomiting; I am satisfied that it took place, from the contracted state of the walls of the bowels, and in connection with other facts—the unusual emptiness of the gall bladder, there being no viscid mucus in the colon, the emptiness of the urinary bladder, the reddened appearance of the folds of the stomach, the comparatively emptied condition of the blood vessels; from what I have seen myself, should think the mouth of the womb was five or six times the natural size of a virgin womb; inflammation of the womb would not be likely to cause death in one night; I did not find so much blood in the lungs as I have before in subjects; I will swear that considering the temperature of the weather there was more rigidity in the limbs than there is ordinarily after death.

Direct examination.—The appearance of the membrane bore evidence of past inflammation only; there was no evidence of present inflammation; there was no more danger from this than any other healed wound, although it could not act in as healthy a manner as formerly.

Dr. Thomas Smith, for prosecution.—Am one of the coroners of Albany county; assisted Dr. Swinburne in making the post mortem examination; the stomach and about four feet of the small intestines were handed me by Dr. Swinburne, on the 8th of March, which I gave to Dr. Salisbury; they were put in a bowl, and a piece of white linen cloth was tied over it, and a number of newspapers over that, and the bowl brought to Albany and delivered to Dr. Salisbury; on the following Sunday took other portions of the stomach to Dr. Salisbury, namely, the remainder of the bowels, with the exception of five or six inches of the rectum were removed, a portion of the liver, all or a portion of the pancreas, portion of the lungs, and about four ounces of blood; they were put in glass vessels at the house, covered and tied up. No one touched them except Dr. Swinburne and myself, until delivered to Dr. Salisbury.

Cross-examined.—Am a physician; have practiced in this city since January, 1845; empaneled a jury the first night; do not know whether I did or did not notice anything peculiar in her countenance; can't say, not having known her before death; assisted in making the post mortem examination; the parts removed, after

being put in the bowl, were placed upon the mantle-piece, where they remained about an hour; during the dissection, not more than two persons were in and out at same time; I was assisting Dr. Swinburne; can swear that during that hour there was not ten persons coming in and going out of the room; the bowl was uncovered as it set on the mantle-piece; the small pieces of a cheesy appearance were discovered by me; I found what seemed to be a piece of wood in the cæcum; I lost it in the course of the examination; I discovered the seeds in the same place; Dr. Swinburne picked them out and handed them to me; could not determine what they were; I discovered nothing peculiar in the pancreas and spleen; I have never seen the muscles as rigid as these were, after death; discovered a black and blue spot, three-quarters of an inch in length, on the neck of the womb, with mucus attached to it; injuries to the womb and its extremities do not generally produce irritation over the entire system; the mouth of the womb was a little ulcerated; the ovaries were out of place; I should think diseases like these of the organs of generation would or might produce hysteria; never heard or read of a person dying of a hysterical fit, produced by a diseased state of the generative organs, unless extreme debility existed before the fit, as in the last stages of consumption; hysteria is a nervous affection, peculiar to females; it sometimes throws patients into spasms, and sometimes causes epilepsy; never produces death, unless it terminates in apoplexy; sometimes hysteria fits appear to produce unconsciousness; the brain was not congested at all, as I discovered; if there was poison in the stomach, which had been administered through the mouth, I gave the chemist sufficient of the stomach to detect it by his tests.

Adjourned to 3 P. M.

AFTERNOON SESSION.

Dr. Smith—Direct examination resumed.—I was, during the time that the bowl stood on the mantle-piece, about six feet from it; I think no one could have got the bowl without my seeing it; we stood between the corpse and the mantle-piece on which the bowl stood, and no one could have got to the bowl without crowding by me; the piece of woody substance was very small, but large enough to detect the fibre; I have seen unusual rigidity in cases of drowning; I discovered a bruise on the under lip; it was black and blue, and one-quarter of an inch in diameter; think it was made during life; saw nothing very unusual about the brain; on lifting up the arachnoid membrane, it tore portions of the pia mater with it; this was the natural adhesion; there was nothing in the appearance of the womb that would cause death; the stomach was unusually small. (The Dr. here went into a description of the appearance of the stomach, corresponding in general with those already given. *See testimony of Dr. Swinburne, ante.*) I did not examine the bowels or duodenum particularly; the only thing that I observed about the intestines was that they appeared smaller than usual; the cause of her death, I think, was in her stomach; think it must have arisen from poison; think she must have vomited or have made the

effort at vomiting; the contracted appearance of the stomach was an indication of this; have read considerably on the subject since my examination before Esquire Cole, and have seen some dissections.

Cross-examined.—When the stomach is empty, it is contracted or collapsed; can think of nothing else which contracts the stomach but vomiting and emptiness, except some poison which may; all acute inflammations increase the size of the stomach; my reasons for believing she vomited, was the stomach being so contracted and corrugated; I do not think of any other reasons now; I believe it was poison, because in all my readings and researches I could find no other reason which would cause such an appearance of the stomach in death in six hours; in nineteen out of twenty of the post mortem examinations which have come under my eye, satisfactory cause of death has always been found; within the last year I have probably attended forty post mortem examinations; have made some myself; and I have witnessed a number made by Dr. March; syncope was the immediate cause of death in this case; I ascribe the cause of death to the effect the substance introduced into the stomach had directly upon the nervous system; a person may live three or four days who has had a substance introduced which has a direct effect upon the nervous system; I think death was caused by the direct effect of the substance upon the nervous system, which prevented nervous energy from being conveyed to the heart; it does not follow in this case that death ensued from exhaustion by vomiting; *simple narcotic poisons*, which affect the nerves, leave no traces, I believe, upon the stomach; I did not observe the discoloration on the arachnoid membrane; I have known cases where the arachnoid membrane and the pia mater have adhered, without its being caused by inflammation. It is not unusual to find such spots as that described on the arachnoid membrane.

Direct examination resumed.—I know more about the body now than I did when sworn before Justice Cole: I have studied in regard to it, and in some points I have changed my opinion; have read books, dissected subjects, and made anatomical observations; I learned by dissection that morphine did not contract the stomach; that corrosive sublimate did not give the appearance this stomach had (and several other instances were cited by the Doctor, of cases of death by drowning, from a blow on the head, consumption, &c.); in all of these the appearance of the stomach was different from that of the deceased.

Frederick Hungerford, for prosecution.—I am a brother-in-law to the deceased; I married the sister of prisoner's wife; I have known the prisoner about two years; in January last I had a conversation with prisoner at Clarksville; I live about five miles from Berne; he said, "the old lady (Mrs. Van Dusen) has let out the place to Long;" I told him that I thought he was going to have it; he said he wanted to, but that she would not let him have it, and that "they wouldn't gain anything by it;" he spoke then about my wife attending a trial in this city, between Lawrence and Slawson;

I said I supposed she would ; he said he would not if he was her, and that Lawrence had not used her well ; he then spoke up and said, " By God, Maria shan't go, if she does I will break her G—d d—d neck ;" I said he shoul'n't speak so—that if she was subpoenaed she would have to go ; he said they wouldn't subpoena her unless they did it before he got home that night ; that if they did subpoena her, they wouldn't get her ; I told him they would send an attachment after her ; he said, By G—d, no attachment can get her ; this conversation was on the last Friday in January ; previous to that I had a conversation with him about the will ; I don't recollect whether that conversation was in the fall or winter ; he said he wanted an inventory taken of the property ; I think I told him it would be a good idea ; this was about all we said.

Stephen Van Dusen, for prosecution.—Am a brother of deceased, Maria Van Dusen ; I resided last March in the town of Berne, four miles from Clarksville ; on the morning the post mortem examination was held I was at my mother's, at Clarksville ; came there between 8 and 9 o'clock ; saw the prisoner there ; he was, when I first came, in the kitchen, sitting on one chair and his head on the back of another ; I passed the time of day with him ; asked if I could see Maria ; the prisoner said I could ; the doctor and coroner were there ; I looked at the corpse a few moments and returned to the kitchen ; the prisoner was not there ; I went from there to the wood house ; it was closed ; saw prisoner there ; he came to the door of the wood house with his thumbs in the arm holes of his vest, and his head down ; I said, " Mother has poor wood to burn ; it ought to be cut up so it could dry ;" he said, " Little Low was too d—d lazy to do it ;" he asked if I had been in to see Maria ; I told him I had ; he asked me " *What they were doing ?*" I told him the doctor and coroner were in conversation ; he asked me to " go in and see what they were doing ; and ask them if they were willing he should send for Dr. Springsteed ;" I went over again ; found the coroner and doctor at work at the body, taking out the stomach ; went back into the wood house, where I left the prisoner ; when I came under the wood house, he was standing about where I left him ; when I got within 3 or 4 feet of him, he spoke to me and said, " *What are they doing ? what do they find ?*" I told him they were taking out the stomach ; I didn't know whether they had found much of anything ; he made a reply to it, and said, " *One thing I know, they won't find arsenic ;*" I looked up at him, rather surprised, and he turned suddenly away from me, and walked towards the door ; I followed him ; he then asked me if they were willing he should send for Dr. Springsteed ; I told him yes ; he said Springsteed had always been her doctor, and he would like to have him come ; my brother Lawrence was going to Albany, and going out the door, the prisoner asked him to tell the doctor to come up ; we then went to the barn ; on the way up the lane we saw some hens ; he said Maria had ten hens there, and he didn't know where they were ; he said her father had given them to her ; in the yard he pointed to a cow, and said it was Maria's ; I asked him if father had given it to her, and he said yes ; we went into the barn ; there were three sheep there on the hay ; I

drove them off and out of the barn ; he said that two of them were Maria's ; I asked if father had given them to her, and he said, " Yes ;" I told him she didn't live to enjoy it ; " Yes," he said, " she's dead ; at *ten o'clock* on Sunday night she went to bed, appearing to be as well as usual ; at *two o'clock* he waked up ; that she crowded him ; he said to her, ' Maria, lay back ;' he called again to her in the same way ; he then put his hand on to her, and felt of her forehead ; thought she was dead, and gave the alarm, and called for a light ;" he said, I think, " that Matthew brought the light up, and she was dead ;" I replied that it was a very sudden death ; he said, " Yes, it was ;" I then asked him, if Long was going to work the place ; he said he was ; I asked him what share Long had ; he said he had half ; I asked him if he used mother's things ; he said all but one horse ; he said he ought to have had it in his place, and would have had it, had it not been for little Low ; he said that Low had been against him, and he didn't get it ; I said it would probably be just as well, being that Maria was dead ; Yes, he said, Maria was dead ; we went to bed at *eleven o'clock*, talked a little while, and went to sleep ; woke up at *three o'clock*, and she crowded him ; called her, as he described before ; he started and thought she was dead ; raised up in bed and called for a light ; after they brought the light up, she was dead.

Cross-examined.—I do not know where my brother Low is ; the last I saw him was about two weeks ago.

Adjourned to nine o'clock this morning.

EIGHTH DAY.

TUESDAY, *June 21.*

Court convened at 9 o'clock, A. M.

Dr. James H. Salisbury, for prosecution.—I reside in Albany ; am a physician and practical chemist ; have been on the State Geological Survey as a chemist, and now have charge of the State Laboratory ; have been thus employed since 1846 ; have given organic chemistry particular attention. On the 8th of March, in the afternoon, Coroner Smith and Dr. Swinburne placed in my hands the stomach, and a small portion of the small intestines, said to be parts of the body of Mrs. Hendrickson ; they were delivered to me in an earthen bowl, which would hold from one quart to three pints, and it was covered with a cloth, and outside of this with paper ; on the 13th March they placed in my hands the remainder of the small intestines, the large intestines, portions of the liver, and portions of the lungs, pancreas, and a portion of the blood ; I think the spleen was present ; they were delivered to me in two wide mouthed glass jars, one would hold somewhere from a pint to a quart, and the other about two quarts ; over these jars was placed paper, and over this a metallic cap ; the blood was in a small glass vial, a six ounce vial ; this was nearly full, and was closed with a common cork.

The stomach was laid open ; found it very much contracted, and drawn into folds and ridges ; it was not more than one-third as large as a stomach in its natural state ; there was a very high state of congestion ; the mucus coat was covered with a whitish substance resembling viscid mucus ; this was covered with blood.

The duodenum is the first portion of the small intestines ; this was contracted ; it was contracted both ways, longitudinally and transverse ; it was highly congested, and the inner coat was covered with viscid mucus, mixed with a slight quantity of whitish matter resembling chyme, and this was mingled with blood ; the length of the duodenum was from 10 to 12 inches. The jejunum was in a high state of congestion, contracted, its mucus coat covered, like that of the duodenum, with mucus and a whitish substance resembling chyle ; these were tinged with blood ; the congestion was less here than in the duodenum ; the length of the jejunum was not far from ten feet.

The illium, the next portion of the intestines, was considerably congested, a little less so than the jejunum ; the mucus coat was covered, like that of the jejunum, with viscid mucus and a whitish matter resembling chyle, which were tinged with blood deeper than the contents of jejunum ; no fecal or excrementitious matter was present ; the illium was not far from fourteen feet in length ; the small intestines were not laid open before I received them ; I opened them myself.

The cæcum was filled with fecal matter ; this was thin and quite watery ; where the walls of the cæcum came in contact with the fecal matter they were slightly congested ; this fecal matter contained seeds, and what appeared like little pieces of wood ; there were two or three lemon seeds, some coriander seeds ; also three other kinds of seeds in considerable quantity.

The upper portion of the colon, next to the cæcum, contained fecal matter, which was thin and less watery than that in the cæcum ; toward the rectum the fecal matter became more dry and hard ; at the lower portion of the colon it was quite dry and hard, as though the person had been costive ; the cæcum and colon together were about four feet in length.

The rectum contained fecal matter ; it was hard and dry ; I noticed nothing peculiar about the rectum ; the fecal matter was hard and dry, as though the person had been quite costive.

My opinion is that the person vomited, and that there was a tendency to purging ; the tendency to purging extended to the upper portion of the colon ; my reason for the purging is the fecal matter in the cæcum being thin and watery ; my opinion was not formed very much from the appearance of the walls of the cæcum, where they came in contact with fecal matter, but mainly from the emptiness of the small intestines, and the appearance of the fecal matter in the cæcum ; my opinion is that purgation did not actually take place ; the intestines were considerably contracted in diameter ; I judged this was so, because the walls were thick and rigid ; they were contracted in diameter about one-fourth. I speak of the small intestines. From what I saw at the time, and have seen since, should think they were contracted at least two feet ; the duodenum in a healthy state is about an inch in diameter ; the small intestines are slightly less ; they vary in size, but certainly less than the duodenum ; the colon is ordinarily about an inch and a half ; the illium varies in size.

Q. Why do you think she vomited ?

A. The contracted condition of the stomach, its emptiness, the emptiness of the small intestines, and the high state of congestion and effusion of blood in these organs, lead me to this opinion.

Had she taken her usual meals on Saturday, I should have expected to have found portions of the food in the small intestines; I did not draw my opinion of her vomiting alone from the presence of the viscid mucus I spoke of; the other evidences I have referred to, such as the irritation and diseased condition generally of the stomach and intestinal canal, were so strong that I have no doubt she vomited.

With the portions of the subject submitted to me, I proceeded to make my tests for poisons; in this case my chemicals were all pure, and my implements and vessels clean.

First, I took a small portion of the stomach, its mucus surface, and a small portion of the duodenum; tested first for prussic acid; did not detect its presence; then tested for some of the mineral poisons; first for arsenic, then for corrosive sublimate, the antimonial compounds, the mineral acids, such as muriatic, nitric and sulphuric acids; also tested for oxalic acid; did not detect the presence of any of these; next tested for morphine, strychnine, stramonine; also for other poisons, none of which I discovered.

I then tested for *aconite*; the tests indicated *aconitine*, the poisonous principle of aconite; took a small portion of stomach and duodenum, digested in alcohol, over a water bath; then filtered; evaporated the filtrate partially; the oily matter rose to the surface; this I separated by decantation, and then absorbed it from the surface by bibulous paper; then mixed the solution with purified animal charcoal, agitating it for some little time after mixing; filtered; and to this solution I applied my tests, as follows:

I boiled a small portion of this solution with sulphuric acid; the solution was turned a deep port-wine red color; I then boiled a small portion of the solution with hydrochloric acid; this turned the solution to light port-wine red color; then boiled a small quantity of the solution with nitric acid; the solution remained clear, with no change of color; from these tests I inferred the presence of *aconitine*; I repeated these tests several times, with the same results; the stomach and duodenum were what I made my preliminary tests with; these tests are what are laid down for *aconitine* by the best authors; I had made these tests previously, and had also made *aconitine* my special study; my tests produced the same result; I have applied them since with similar results; for two years previous to this, I had paid much attention to vegetable alkaloids, and, among them, especially *aconitine*, the poisonous principle of *aconite*.

On the 15th of March, commenced the process of *analysis* for the purpose of separating *aconitine*, if present in sufficient quantity; I divided a portion of the remaining portions of the stomach and duodenum, and their contents, the small intestines, a portion of the liver, and a portion of the blood, into two equal parts; one of these parts or portions I digested in alcohol for several hours, over a water-bath; then filtered, partially evaporated, separated the oily matter by decantation and absorption, evaporated nearly to dryness; mixed with the alcoholic extracts pure caustic potassa; distilled, treated the distilled matter with dilute sulphuric acid, sufficient to neutral-

ize it; evaporated this over a water-bath; treated it with pure alcohol, between seventy-five and eighty per cent.; filtered it, evaporated it nearly to dryness; treated the residue with pure caustic potassa, and again distilled; evaporated this slightly, and set it aside for future use.

The other and second portion was digested in alcohol over a water bath for several hours; filtered, evaporated partially; separated oily matter by decantation and absorption; evaporated nearly to dryness; treated the alcoholic extract with pure distilled water, and filtered; evaporated the filtrate nearly to dryness, treated the water extract with dilute sulphuric acid and distilled water; filtered: I then evaporated it partially; treated the solution with ammonia to a slight excess; a precipitate was formed; this was carefully washed by a small quantity of water; this precipitate was redissolved in dilute sulphuric acid and distilled water; added to this solution a small quantity of purified animal charcoal, agitating for some minutes, and then filtered it; evaporated the filtrate slightly at a low temperature, added ammonia in slight excess; a precipitate was formed; this I carefully washed with a small quantity of distilled water; this result I mixed with the result obtained by the other process; in all there was about two-thirds of a teaspoonful; I was from the 15th to the 19th of March in getting through this process; it was going on day and night. In testing for this matter I placed it on my tongue; it had a bitter taste, a sparkling sensation at first, which in three or five minutes turned into a numbness, producing a stiffness of the surface; the sensation produced was very much like that in the foot when it is said to be asleep; this matter, which I separated by the process just mentioned, I gave to a cat; gave it in small pieces of beefsteak; in about half an hour she exhibited a choking sensation and swallowing; this was followed by slight contraction of the muscles, twitchings which moved the limbs slightly, and this by a tendency to vomit; these spasms lasted from one to two minutes; considerable stupor succeeded; she lay down upon her side and breathed heavily, as though she was under the influence of some narcotic; this lasted for some time; it gradually passed off, and in about three hours she was quite natural again. On the 27th of March I gave this cat six drops of tincture of aconite. In administering it I opened her mouth, held her head back and poured the tincture immediately down her throat; after five or ten minutes, she commenced swallowing; in fifteen minutes she commenced vomiting slightly; this vomiting continued for twenty-five minutes, when she became very weak, and fell upon her side; the vomiting here ceased; she breathed heavy and slow, and in one hour and a half after the poison was taken she died; the post mortem was made in seven hours and a half after she died; the stomach and intestines were found very much contracted, about one-third the usual size; the intestines were very much contracted and rigid, the walls thick; we then opened the stomach, and found a very high state of congestion; it was very much contracted on itself, and drawn into folds; the mucus coat was covered with a small quantity of mucus, tinged with blood; the duodenum was contracted, very much congested; the mucus coat was covered with mucus, tinged with blood; there

was one or two places in the lower portion of the duodenum, where the mucus was tinged with bile; the whole was tinged with blood; the jejunum was considerably congested and contracted; the mucus coat was covered with mucus, tinged with blood; the illium had much the same appearance as the jejunum, except that the mucus which covered its surface was of a slightly different color, more white; there was a little bile here; I found no fecal matter thus far; in the cæcum I found fecal matter; it was partially digested food, mixed with white frothy matter; the upper portion of the colon also contained fecal matter, which was thin and watery, not as thin and watery as that in the cæcum; the fecal matter grew harder as it approached the rectum; there was no purging; the urinary bladder was very much contracted; there was no water in it; it was not more than a quarter as large as an empty bladder; the cat urinated just before, but, not after the administering of the poison; the gall bladder was about half full.

Q. After your researches and your anatomical experiences, are you ready to swear that Mrs. Hendrickson was poisoned by aconite?

A. In my opinion she was poisoned by aconite.

The blood which was brought to me in a vial by the coroner was fluid; the blood in the case of the cat was mostly fluid, except a small quantity of clot in the right ventricle of the heart; there was a small quantity of clot in the vena cava, near the heart, otherwise the blood was fluid; the jugular veins were full, as were the mesenteric veins; the left side of the heart was empty; the vessels of the vena cava were partly full; there was a very slight congestion of the liver where it came in contact with the diaphragm; the lungs and brain were healthy; the muscular system was very much contracted and rigid; the jaws were firmly fixed; when the limbs were bent, they would fly back into their place again; have compared the taste of the substance I procured from the stomach, as before stated, with that of tincture of aconite; have used aconite purchased in New-York, and also from William G. Burroughs, of this city; a bitter, sparkling sensation was at first produced upon the tongue, succeeded in from three to five minutes by a numb, prickling sensation, which lasted some time; I could not distinguish the sensation produced by this, from that produced by the substance I obtained from the stomach and intestines, and administered to the cat; I know of no other substance, than aconite, which produces the same effect.

Q. I have further experimented with aconite since operating upon the cat; have made something like eight or nine experiments with aconite; experiments were made upon three dogs, the rest were cats; they were selected because it is easier to detect the influences of poison upon these animals; the effects of poisons upon these animals are similar to those upon men; these animals are generally used by toxicologists for experimenting upon; I have applied my chemical tests to the viscera of these animals, and with the same results as upon the parts of the subject brought to me by the coroner; the tincture I procured in New York was prepared from two parts of the root and four of alcohol, digested fourteen days; this is the method of preparing the tincture from the root; I also pro-

cured tincture of aconite from Burroughs ; I administered these tinctures separately to cats and dogs separately ; June 8th, poisoned a large cat with tincture of aconite ; at 10 o'clock gave it 12 drops, administered by holding the head back, and pouring it into the throat ; two minutes after commenced swallowing, three minutes after commenced vomiting.

(The Doctor here went into a detailed and minute statement of the effects upon the cat, resembling in general those in the instance already recited. The result was the same, the cat died in nine hours thirty-eight minutes from the administering of the dose ; the post mortem examination was made in one hour forty minutes after death, and the appearances were almost identical with those already cited.)

Adjourned till 3 P. M.

AFTERNOON SESSION.

At the opening of the Court, Dr. Salisbury continued his details of experiments upon cats and dogs, with tincture of aconite ; where it was administered through the throat, the symptoms produced were the same as detailed in the experiment already described, and the appearance of the organs on the post mortem examination were remarkably similar.

The following is an abstract of some of the experiments which he describes in his testimony where he introduced the aconite into the stomach, where he introduced it into the rectum, and also where he introduced it into the cellular tissue :

In every case he described where it was introduced into the stomach, and where death did not take place in less than thirty minutes, the same symptoms were exhibited by the animal, previous to death, as have been already described. The post mortem appearances were so similar to those which the stomach and intestines of Mrs. Hendrickson presented, that it was almost impossible to distinguish a shade of difference. In one case death was produced in $1\frac{1}{2}$ hours with six drops of tincture of aconite. One dog, with a dose of sixty drops, lived one hour twenty-two minutes. Another dog, with the same quantity, lived only twenty minutes. The last mentioned dog was the largest.

In the case where it was introduced into the rectum, there was constant tenesmus of the rectum and bladder from three minutes to about forty-five minutes after its administration—then the tenesmus became intermittent. The tenesmus was accompanied by frequent passage of fecal matter and urine. In about forty-five minutes after poison was given, vomiting commenced, but was slight ; lived four hours and twenty-two minutes ; post mortem was made soon after death ; found the large intestines contracted down to a mere cord, and entirely empty ; highly congested ; mucus coat tinged with blood ; the stomach was also empty and considerably contracted ; a small quantity of excrementitious matter was found in duodenum and jejunum ; the illium was empty and much contracted ; the other post mortem appearances were similar to those where it was introduced into the stomach. In the case where it was introduced into cel-

lular tissue, the stomach and intestines were not emptied of their contents, neither were they congested; the heart was engorged with coagulated blood; there was also more or less venous congestion of all the internal organs.

In the case detailed in the morning, I made an analysis of the stomach and contents, applying the same tests as I did to the parts of the original subject; there are no other substances which I know of which will give the same indications, with the application of the tests I have mentioned.

Q. What did you find on the application of your analysis?

A. I found aconitine, the active principle of aconite; it is found in several species of the plant aconitum; the post mortem appearances of the stomach and intestines (which were brought to me by the coroner) and the post mortem appearances of those of the animals I killed with aconite, are not produced by any other substance that I know of; there is no disease, to my knowledge, which will produce such appearances; the muscles of the jaws of all the animals I killed were in a rigid state; the muscular contraction, caused by the poison, had a tendency to expel urine, as well as the contents of all the open muscular cavities.

Cross-examined.—The coroner brought the stomach to me, and directed the examination; he has employed me for no other purposes than to examine those parts of the subject he brought me; the rest of my investigations have been on my own account; I am 28 years of age; my native place was Cortland county; at 14 I went to the Homer academy; here I first commenced the study of chemistry under Prof. Woolworth; I went from there to the Cortlandville academy; did not pursue the study of chemistry here; left in six months; at about 21 commenced the study of chemistry under Prof. Emmons in this city; under him I was engaged in analytical chemistry, in analysing soils, minerals, plants, &c.; was with him a short time, and went to Rensselaer insitute, Troy; chemistry was my principal study; staid there several months, and returned; was again with Dr. Emmons; was with him some three years; since then have been in the labratory, under the employ of the State Agriculural Society; studied medicine with Dr. Emmons; was admitted to practice in 1849 or 1850; have been practicing since then; my main business, however, has been in the labratory; I don't know that I have testified as a chemist in more than one capital case in this city; in that case Dr. Emmons was examined also; think we did not differ; testified on that occasion to finding arsenic in the stomach of a woman, whose husband was charged with having poisoned her.

I commenced the examination of vegetable alkaloids some two years ago, and particularly aconite; took them all up together, and was studying aconite particularly as a medicine; quite a number of vegetable alkaloids possess medicinal qualities; studied aconite for its medicinal and mechanical properties; one of the reasons for examining it was its being used as a homœopathic medicine, and I wished to ascertain its properties; I studied its properties in books, and followed their directions in giving it to my patients; this being a very violent poison, I was anxious to discover its chemical effects;

I never have had a human stomach but this to examine for aconite ; I paid more attention to the subject of aconite, because of the difficulty to detect its presence ; aconite is a sedative ; my opinion is that aconite has a very irritating effect upon the coats of the stomach ; the opinion is founded upon my experiments, and upon what is said by some authors ; Fleming's treatise on the subject of aconite is considered one of the best published ; he gives the opinion that it has *no* irritating action ; I base my opinion, that it is an irritant, upon the post mortem appearances of the mucus membrane of the stomach and intestines, and from the fact that some of the animals that I killed with it threw up bloody mucus, and the violent vomiting. Vomiting, alone, is not a sure indication of irritation, but, taken with other symptoms, is ; a sedative does not usually produce vomiting by its irritating effects upon the mucus membrane ; as a general thing, a sedative produces vomiting by its effect upon the spinal system ; this appears to be an exception to the rule ; I know of other substances which act as an irritant and a sedative ; tartar emetic does ; nearly all of the narcotic irritants have a sedative and irritant action, but much less than aconite ; it is not the direct sedative action which produces the muscular contraction of the stomach ; my opinion is that aconite acts upon the nervous system primarily, producing, through the motor nerves, tonic muscular contractions and paralysis ; through the sensor nerves, paralysis ; these influences together produce the sedative action upon the system ; it would be my opinion that the sedative is not the primary action of aconitine ; I know of no other active principle in aconite than what is termed aconitine ; there is supposed to be an acid, called aconitic acid ; I did not make any experiments with *aconitine* upon the animals ;* I do not know of my own knowledge whether the aconite I purchased was pure or not—nothing more than was told me ; I have made pure aconitine myself since I have commenced experimenting ; the quantity was very small ; I did not preserve it ; it was in the form of a precipitate ; I did not examine it with a microscope ; and could not tell with the naked eye if it was crystallized or not ; it looked as though it was ; I can say positively I had procured aconitine without discovering whether it was crystallized or not ; I procured not far from half a grain ; I discovered it to be aconitine from its taste and general appearance ; I obtained it by the regular process laid down ; my authorities for the process were Wood and Bache, Berzelius and Booth ; its general appearance was a light, whitish powder ; should judge it was crystalline, though I could not determine positively ; have never read Raspail on this subject ; he is said to be a chemist of good authority.

Adjourned till to-morrow (this) morning at nine o'clock.

* Since my testimony was given. I have administered aconitine into the stomach of an animal. It produced the same effects as the tincture of aconite.

NINTH DAY.

WEDNESDAY, June 22.

Court convened at 9 A. M.

Dr. Jas. H. Salisbury—Cross-examination continued.—Have read nothing upon the subject of aconite, since last night, than what I have read before; have read portions of Booth and Berzelius; it was about the last of March or the first of April that I made the experiments from which I obtained the aconitine; I did not preserve the aconitine I found, because I did not think of doing so; never performed experiments to obtain aconitine until after the death of this woman; I do not know that the Parisian college of pharmacy have offered a large reward for the discovery of tests which will detect the presence of vegetable alkaloids; the tests used to detect do not demonstrate its presence, but merely indicate it; it is with difficulty the vegetable alkaloids can be distinguished by any chemical analysis or tests from some other bodies that do not act as poisons upon the human system; they cannot be discovered with that accuracy that mineral poisons are; they can be discovered with some degree of certainty; we can distinguish them with sufficient certainty to find out whether they are new bodies; we arrive at a knowledge of the several vegetable alkaloids by studying their solubility and insolubility in different liquids, by the appearance of the salts which they form with acids, their taste, whether acid or alkaline, whether we have an acid or alkaline reaction with test paper, and to what extent they possess this, the effect which heat has upon them at different temperatures, their volatile and fixed properties, &c. We arrive at a knowledge of the vegetable alkaloids and acids with a good degree of certainty by chemical analysis and chemical tests; I think morphine could be distinguished by chemical analysis and tests from the concrete of the oil of cloves; I think it could be distinguished by the character of the salts which it forms with acids; I believe they are similar in some respects; morphine is one of the most employed of the vegetable alkaloids; it is very seldom that two principles are found so alike in appearance as morphine and the concrete of the oil of cloves; some are very similar in their component parts, so that to distinguish the difference is very difficult in this respect; have never, before this death took place, made experiments to discover the active principle of aconite; in this case I did not determine whether or not it was crystalline; I experimented upon the tincture; there was about half an ounce; gelatine, when boiled with nitric, sulphuric, and hydrochloric acids, separately, does not produce the same colors, when so treated, as aconitine; I cannot swear that there is not twenty substances which, treated the same as that I procured from the stomach, would not produce the same result with chemical tests; if so they are not known; I do not rely upon the chemical tests alone to prove there was aconite; I tested a very small portion of the duodenum for mineral poisons; I do not recollect, before commencing the tests, whether the substance I worked upon was acidulated or alkaline; each test for poisons was applied to different portions of the parts brought me; it is stated that the *fiftieth part* of a grain of aconite has endangered human life; the first process I used, in testing for aconitine, you can

find laid down in books; Booth, Wood, Bache and Berzelius, I think; the process where we do not distil is the one laid down to separate aconitine from the root; I cannot say whose process is the one in which we did not distil; think you will find it in Gregory; it is used for separating volatile vegetable alkaloids; in my opinion, aconitine is a fixed body; it is generally so laid down; I did not ascertain if aconitine had been procured by the process in which we distilled; the substance was mixed with that procured by the other process; laying aside the fact that aconitine is a fixed body, I cannot swear that I had procured more by one process than another; I tasted of neither before they were mixed; I know that aconitine was procured, from its producing the same effect upon the tongue as the tincture, and the similar effects upon the animal, and from the fact that it was obtained by the same process laid down for extracting aconitine; got a liquid in one case, and a precipitate in the other; did not think it necessary to try their taste before mixing them; I was not sure by which process aconitine was obtained; think it was not in the liquid; of the liquid, I got about a half a teaspoonful; do know what it was, principally; I gave it the cat; did not test it, and hence could not swear positively what it all was composed of; alcohol and water were both present; the liquid was clear, like water; had I preserved a part of the precipitate, I probably would not have had enough to have made my experiments; I think I obtained the precipitate the last of the week; I did swear, before Cole, that in my judgment I obtained not far from a twenty-fifth part of a grain of aconite; I have not altered my judgment since.

Q. Would not a hundredth part of a grain kill a cat the size of the one you experimented upon?

A. The quantity of aconitine required to kill an animal would be proportioned to its size, other things being equal; this cat would weigh, probably, six pounds; it does not follow that because a fiftieth part of a grain of aconite would endanger human life, that one hundredth part of a grain would kill a cat the size I operated upon; the nervous system of a cat is proportionably stronger than that of a human being; I think the fiftieth part of a grain of aconite would be a dose to endanger the life of a cat, weighing six pounds, ordinarily; my judgment is, that I had not to exceed from a 20th to 25th part of a grain; I did not weigh it; I did not dry this precipitate; I could not have dried it without losing part of it; should not judge the crystalline form as good a test as the taste; I think in drying this I should have lost full one-half.

After all I have seen in my search for aconitine, and of the effect produced, I will swear that *I have detected aconitine*; I have dissected cats before this case, but have not made a post mortem examination; I called in Dr. Swinburne; I recollect no one else; there was hardly a drop of liquid left with the precipitate; I can swear there was not a particle of animal matter in either of the residuums I obtained; the books state that it is very difficult to separate animal matter from substances thus obtained which have been in contact with it; it was by the use of the lengthy processes of analysis that I separated it; the human body becomes very poisonous when undergoing decomposition—is so deadly that a very small particle in-

troduced into the veins will cause death ; there might have been a very slight trace of ammonia in the precipitate which was formed in the process where I used distillation ; in the taste of ammonia and aconite upon the tongue, there is not a particle of similarity ; I tasted of this substance several times ; I did not think, at the time, of having any other person to corroborate the taste ; I administered the substance, got from the stomach, to the cat the same day that I had succeeded in procuring it ; in regard to the seeds found in the stomach, I took them to New-York to ascertain their character ; did not determine what they all were—thought they did not belong to any of the poisonous plants ; they were of different kinds.

I have administered two teaspoonfuls of pure alcohol to a large cat ; it seemed to make her lively ; one and a half teaspoonfuls, to a kitten, created a disposition to fight ; the materials I used in making my chemical experiments I am sure could not have created a poisonous compound ; no one assisted me in making any part of these experiments ; I refer to the analysis of the stomach ; the reason why more aconite would be required, in proportion to size, to kill a cat than a human being, is the difference in the strength of the nervous systems, and the difference in tenacity of life ; the general effect of aconitine upon both would be the same ; if there had been one fiftieth part of a grain of aconitine in what I administered to the first cat, it might or might not have killed her ; I cannot form an opinion ; I administered aconite in different quantities to different cats ; some were stronger than others ; you cannot judge from looking at them ; those I experimented upon died in different lengths of time ; I have not made anatomy a particular study ; have given particular attention to physiology ; do not know of a disease which will congest, contract and draw the mucus membrane of the stomach into folds, at the same time, like aconite ; it may be caused by the introduction of some substance ; hysteria will not produce these three post mortem appearances together ; it may produce some of them ; disease of the womb is one of the causes of hysteria.

I agree with Dr S. that no one ever died of hysteria ; my opinion is, that in this case the contents of the small intestines passed both ways, out of the mouth, and also into the cæcum and colon ; I believe that a part of the contents of the small intestines passed through the mouth of this woman, from the quantity of matter in the cæcum, and from the condition of the stomach and intestines ; in all cases of severe vomiting, portions of the contents of the small intestines are thrown up ; think the contents of the small intestines were thrown up through the mouth from lower part of jejunum ; the quantity of matter in the cæcum was larger than usual, thin and watery ; I do have an idea in regard to it—the vomiting is very certain ; have examined very many stomachs, and have never found the small intestines entirely empty ; found what looked like chyle in the jejunum and illium, and chyme in the stomach ; both are healthy substances ; I found mucus ; this is a healthy substance, unless something is present, to produce morbid action ; there was blood mixed with the mucus in the stomach and intestines ; it was mingled with it so as to make the color very marked ; my opinion is that the appearance of the stomach and intestines could

not have been produced by any other substance than the introduction of poison; I have examined, in the case of sudden death by drowning, and have seen nothing like it; my opinion is that sudden death could never produce it; Dr. Swinburne and myself have not been together much since this trial commenced; we were not together the morning I was called upon the stand; he was at my office a few moments last night, but nothing was said in relation to this.

Direct examination resumed.—In testifying as to the quantity of poison I found, before 'Squire Cole, I gave it as merely guess work, and that I could not positively give the amount; I stated, I think, that I could swear that there was over the three hundredth part of a grain, but that it was merely my judgment; I had not weighed it; Mr. Hadley never did, to my knowledge, ask me to allow another chemist to be present during an experiment upon a cat; his remark was, "that he would like to be present," or something of that kind; there are no material changes in the morbid appearance of stomach and intestines in from three to thirty hours, unless rapid decomposition sets in; I do not recollect of any cases where morbid animal matter, taken into the stomach, has produced death. I have heard of cases where they produce the symptoms of poisoning, but do not know of death having ensued; muriatic acid is one of the strongest mineral acids, and used in laboratory as a general solvent for minerals, ores, &c.; I have never heard of it being used for cleaning teeth; I think it would be very injurious to the teeth and gums.

Cross-examination resumed.—I think diluted muriatic acid could not be used for the teeth without injury; I think it would take off the enamel; many of the washes used are, in my opinion, injurious.

Adjourned to three P. M.

AFTERNOON SESSION.

The court met at 3 o'clock.

Ellen Young, for prosecution.—Resides at Clarksville; knew prisoner's wife; knew her a short time before she was married; I saw her the same day her corpse was brought to her mother's; it was between 4 and 5 o'clock; her face was fuller than when living; I felt of no other part of her than the face; I did not observe any marks or bruises on her face the first day; I saw her a few weeks before she left Clarksville to go to Hendrickson's the last time.

Cross-examined.—The whole face was swollen some, but the lower part more than usual; the face, as I have described, was so much larger than it was when living, that almost any one would have noticed it; I mentioned it first to her mother, when she was laying in the coffin; I have seen no other corpse that I remember where the face appeared swollen; I have never seen prisoner's wife have anything that they called a fit; I knew her, I suppose, about a year before her marriage.

Emily Bennet, for prosecution.—Resides in the town of New Scotland, near Clarksville; knew prisoner's wife; have known her

about a year ; have seen her frequently during that time ; saw her about six o'clock in the evening of the day she was brought to her mother's, a corpse ; the face was fuller than I was used to seeing ; I put my hand upon her stomach, and there was not that deadly coldness I had been used to feeling.

Alvah Winne, for prosecution.—Resides in Albany ; some distant relation to the prisoner, but can't trace it ; heard of the death of prisoner's wife about the time it occurred ; the week before that I saw him in this city ; it was on the 5th of March, in front of the Clinton Hotel, between five and six o'clock ; he was dressed in a blue overcoat and a plush cap ; have known him well for some time ; I caught up to him, and walked as far as Pearl and Hudson, where he went into Wood's drug store.

William J. Snyder, for prosecution.—I keep tavern in Bethlehem ; know the prisoner ; on the Sunday night his wife died he was at my tavern ; it was about half-past nine ; he remained a very short time ; believe he took something to drink.

Cross-examined.—I believe they were on their way from church ; he came in and asked for his father's boot.

Mary Van Dusen, for prosecution.—I am mother of the deceased, Maria Hendrickson ; she was 19 last December ; she was married to the prisoner two years ago the 18th day of last January ; after her marriage she resided with her father at Clarksville ; I recollect the prisoner going to Corning ; it was about the last of September, of the year they were married, before he left for Corning ; she told him that it made her heart sick to have him conduct himself as he did ; it was more than she could bear to be disgraced in that way.

(Objections were made by the counsel for the prisoner to the introduction of this testimony, as being remote and having no pertinence.

The Court sustained the objections, and the examination proceeded on other points.)

He was gone to Corning, I think, about three months ; previous to his return she had a child born ; I think the child was from four to five weeks old when he returned ; I think it was in November or December he returned ; I am not sure which ; the child is dead ; it was six weeks and two days old ; after his return he staid at our house the bigger part of the time ; in February, a year, he left our house and went to his father's ; he went to his father's because his father-in-law sent him away. (Objections to proving by this witness that the prisoner gave his wife a disease, were taken by prisoner's counsel, and after argument between counsel, the objections were overruled, and the testimony proceeded with.)

There was a difficulty between prisoner and his wife ; he went on Saturday morning to the doctor's, and she told him to be back as soon as he could ; she was sick at the time ; he did not get back till nine o'clock next morning ; said she, "John, you see how sick I am ; don't stay any longer than necessary, but come back as soon as you can ;" he said, "I will ;" when he came back she found fault with him for treating her with neglect, and continued doing so until her father sent him away.

She told him that she felt herself disgraced and degraded by his conduct ; she told him she did not wish to see or speak with any one she was acquainted with ; she felt ashamed and degraded ; he told her that he couldn't help it ; that his being hurt on the cars by a fall was the cause of the disease ; she told him that she had yet to learn that it could be produced in that way ; after this conversation, the prisoner went away ; I expect he went to his father's ; he came down stairs, never spoke to his wife ; left her lying in bed and went away ; she was sick at the time ; the day before he went away, he used some very hard language to her ; he called her "a d—d fool ;" I did not hear the whole conversation ; I saw her sitting in bed, crying ; he was near the bed ; I told him he better not use such language to her in my house ; he answered, "it would be according how he felt about it ;" I told him he better recollect where he was, and he made no reply at that time ; she remained at our house ; the next conversation that arose between them, where there was hard feeling, was about Miss Schoonmaker ; she spoke of his seeing Miss Schoonmaker at Veeder's ; she accused him of having seen Miss Schoonmaker the night she thought he was at Albany ; he confessed to her that he was at Schoonmaker's that night ; that he got there that night ; that Miss Schoonmaker was waiting in the parlor for him ; that he staid there till about 4 o'clock in the morning ; that she had asked him to come there the night that she had seen him at Veeder's ; I have heard them very frequently talking together—she crying about his conduct ; I have heard Maria frequently upbraid him about the rings and the daguerreotype which were exchanged ; on one occasion she told him that she knew Miss Schoonmaker had the daguerreotype he had given her (his wife) ; he said that he had spoken to Miss Schoonmaker about changing the rings back, but that she hadn't it then ; he afterwards procured the ring and daguerreotype and offered them to his wife ; the ring she took, but refused to have the daguerreotype ; he said he would have nothing more to do with Maria Schoonmaker ; about the first of December last, he brought a buffalo robe home ; she accused him of stealing it ; she told him he must take it back and let the owner have it ; he got some paint and went to painting the buffalo skin ; he went up stairs with it and she followed him up ; I heard so much talk there that I went up afterwards ; he was talking to her pretty rough ; I staid up a few minutes, and she would not let him disguise the skin ; I had to go down stairs ; before I could return she came down crying ; he shortly came down stairs and they had considerable words ; she said it should not go out of the house—that she would cut it to pieces.

He had some whips there, about the same time, which she said he had stolen ; she told him she would break them to pieces ; he swore at her, called her a fool, and said she had broken the handle of a whip ; when she charged him with stealing the whips, he said "he had ;" she said she would not have such things as those about her ; there was also a nearly similar conversation about a bridle at the same time.

Last January he brought her to our house from Hendrickson's ; he spoke to her about going home ; she told him she had not received

"her blessing yet;" I asked her what that was; she said "he swore at her regularly every day;" I told him that if he could not use her any better, he had better leave her where she would meet with proper treatment; he made reply that he guessed she'd get along; one day in the fall or winter she cut her hand, and put a sticking plaster on; on one occasion they sat on the edge of the bed; she took the plaster off; he jammed her hand with his elbow and called her a d—n fool, and said "she didn't know anything;" she cried, and told him not to do it again; he said he would do as he pleased; Mrs. Van Wie was there and made the remark, "that if it went so now, she did not know how it would go when they went to house-keeping, home;" he swore "she would have to turn over a new leaf if ever that took place."

About the last of July, a year ago, I took prisoner and wife to Hendrickson's; they had been at our house a couple of days; he complained of being unwell; the second week after they had gone there her father brought her home; last December, one morning, he was talking of going to Albany; he spoke to her—"Maria, shan't I get you some medicine?" She said "No;" then he spoke again—"Shan't I get you some medicine?" Says she "No; you want to get me some of that poison that you got last summer, which I would not take, and burnt up." I looked up at her; says I, "Poison, Maria?" "Yes mother," says she, "you never saw it; I burnt it up." He made no reply, but walked out of the front kitchen door.

I came to Albany with them, I think, last January; while coming back, Maria said she "was going to learn the milliner trade;" I said that I supposed Maria thought if she learned a trade she could get her living independent of anybody; he said he "guessed she couldn't;" I told him he didn't know all, as I was going to help her along with it; "Now, by G—d, she won't," said he; we neither made any reply. Maria came home five weeks before she died; he was there the day before; I asked him why he had not fetched her with him; he said she was sick; I told him she then certainly ought to be home; he said he guessed she would get along, but he wanted some clothes to take to her; I told him he must bring her home, that I should send her no clothes; he said she was unable to come home; the next day she came home; she did not look sick; during that winter I thought Maria had regained her health; I know of her having no other disease than that of the womb; this last winter she spoke to John about gambling; she told him he was degrading himself, and was destroying what little peace of mind she had left, by gambling; I can't give her exact language, but she spoke to him at different times; two weeks after she had been at our house for the last time, prisoner and his sister Maria came after her; Maria, Lawrence and myself had gone to Albany, and did not get back till after supper; the next day she went home with him.

Adjourned till nine o'clock to-morrow (this) morning.

TENTH DAY.

THURSDAY, June 23.

Mary Van Dusen—Direct examination continued.—It was about 4 o'clock in the day that my daughter's corpse was brought into the house; I noticed it; its appearance was very different from any corpse I had ever seen; her face appeared to be swollen; her flesh appeared soft and spongy; the lower part of her face appeared swollen; her chin projected out further than natural; her lips were tinged with blue; her jaws appeared to be closed very tight, as if they were stiff; her face was of a deathly expression, not the natural one of death; I felt of her arms and hands; in lifting up her arm, it would fly back again; in her stomach there appeared to be more warmth than on the rest of her body; there was a blue spot on the outside of the lip; there appeared to be a cut on the inside; Mr. Van Dusen died on the 4th of October; he left a will, which is on file with the Surrogate.

Cross-examined.—I tried to, but could not open the lips; the reason I tried was because they appeared to be stiff; the teeth were about a quarter of an inch apart; I opened the lips; they were swollen and spongy; I could easily do that; this was about half an hour after the body was brought to the house, and before the doctors arrived; it was at the same time that I tried to move the arm; the body was in the coffin; the arm, when I moved it, went right back to its place; no one was present but myself; it was before dark; my daughter sent prisoner into town for a doctor some time last February, on Saturday, I think, but what day of the month I can't say; she sent for Dr. Springsteed; she was affected with a disease of the womb; she thought and said she was dangerously ill; it was in the morning; she had been confined to her bed for some weeks; Dr. Springsteed had attended her; prisoner had been home with her part of the time; sometimes the prisoner pretended to be kind to her; when he acted kind, he was hypocritical; I feel as kindly towards prisoner as he deserves; Dr. Springsteed did not get there the day he was sent for; I think he came there Monday; during that sickness her husband appeared to be quite attentive to her; think she did not sit up, except to have her bed made, for a week after; prisoner did not get back till Sunday morning at nine o'clock; when he did come home, he laid down on the back of the bed, and slept the best part of the day; it was two or three weeks after this that prisoner and wife had conversation about Miss Schoonmaker; don't know how his wife heard about it; the first she said to him was, "John, you was there;" he said he "hadn't been;" I then said, "John, you need not deny it;" he asked me "how I knew;" I said "I had got track of his travels, and that was the way I found it out;" she told him he "might as well own it;" I told him the same; he owned it; he said he "had started away from his father's, at eight o'clock, to come home; instead of that, went to his Uncle Veeder's; then went to old Schoonmaker's; Maria was waiting in the parlor for me; it was ten o'clock when I got there; I staid till about four o'clock; then I started to come home;" Maria then told him "he ought to be ashamed of himself;" she told him that he "must stay

away from her; that she wanted nothing to do with him;" he promised her that he would have nothing more to say to Maria Schoonmaker; before this difficulty about Miss Schoonmaker they appeared to be very fond of each other; I laughed at them, because I thought he was a hypocrite; I did not think him a hypocrite before the Elmen-dorff affair, which was in the fore part of the summer; the next conversation was about the locket, this was about the middle of the next summer; it was in the kitchen; she was finding fault with him about Maria Schoonmaker having her ring and his likeness; he told her he would get them from Miss S., that she hadn't them then with her; that she would send them by her brother James; they parted good friends.

The next conversation that I remember was when he brought the ring; she took the ring, but refused the daguerreotype; they this time parted on good terms; the next conversation was in my bedroom, the same summer; when I came into the room, she was crying; says she, "John, you will kill me—break my heart!" says he, "You can content yourself; I will have nothing more to do with her;" this was all I recollect; they then appeared to be good friends; I do not remember enough of any other conversation which took place after that summer or fall, to relate; at this present time I cannot remember; probably at some other time I might; the conversation about the poison took place last December; it was in the kitchen, in the morning, just as we had done breakfast; I cannot say how long he had been there at that time; John said, "Maria, shan't I get you some medicine?" Maria said "No;" he asked her again, "Maria, shan't I get you some medicine?" Have heard him ask her if he should bring her medicine before; he has often got her medicine, when he came to town; her answer was, "You want to get me some of that poison you got last summer, which I burnt up and wouldn't take;" have sometimes heard medicine talked of as though its effects might be poison; this was all the conversation that occurred between prisoner and Maria before he walked out of the room; there was some conversation between me and her; Maria used to have very distressed spells; she complained of pain in one of her hips; the pain was drawn into the other hip; sometimes the pain would draw up into her stomach and head; she never had a fit, because her hands were not cramped; I do not think she ever lost her consciousness; I saw her twice have something which appeared like spasms; they were not spasms, for she was not at all cramped; they were so momentary that I could not tell if she was speechless; I laid her down; I think she could have got up before fifteen minutes; I do not recollect the time she laid; the first of these spells might have been in April, a year ago, or about that time; they were both on the same day, and within an hour of each other; never knew her to have a fainting fit; never saw her have but these two spells; I do not recollect what I told Mrs. Hendrickson about Maria's death.

George Brainard, for the prosecution.—Am one of the police officers of this county; went to Burroughs' Medical Hall to find out if prussic acid had been sold on Tuesday night, March 8; Burroughs

was not in ; his clerk was there ; the cap and coat which were shown Mr. Burroughs in court I produced here ; I got them at Mr. Hendrickson's house ; received them from Maria Hendrickson ; I got them somewhere about the 23d of March ; I went out with Mr. Hill, when he made the diagram of the house ; from where I stood, in the road passing Mr. H.'s house, I could see all three of the windows in the north end of the house ; could walk along some space and see them ; when I was there, there was no foliage on the trees to obstruct the view.

Cross-examined.—I asked Maria for the coat and cap ; she went into the bed-room and got them ; I did not observe how far we could travel the road and see the windows ; I did not go over ten or fifteen feet east of the lane.

Dr. Springsteed recalled for prosecution.—My practice is Homœopathy ; I attended prisoner's wife from about the middle of January, 1852, to the end of December last ; the seat of her disease was in the womb and the vagina ; she had no other disease ; it is hard to say whether she was cured of both diseases or not ; when I first attended her I thought the inflammation of the womb might have been produced by the effects of cold or childbirth ; the disease in the vagina,—

(Objections were here raised by counsel to witness' testifying to the nature of the disease, as having no effect but to wound the feeling of prisoner. The witness also raised the objection to testifying, and that portion of the testimony was passed over.)

I should think that the disease of the womb and the vagina were not likely to cause death, from her appearance when I last saw her ; this was on the 21st of last February ; she came into my office and asked if Maria Hendrickson had been there ; I asked how she was, and she said she was very well, with the exception of a pain in her hips, her back and her head ; I suppose these pains arose from the inflammation in the neighborhood of the womb ; they generally produce these pains ; I prescribed aconite for her the first visit, and perhaps afterwards ; I do not know in what form I gave it to her ; I use it in liquid and in small pellets ; the aconite I first prescribed for her was in January, 1852 ; of all that I left there, there could not have been more than half a drop of the "mother tincture ;" in twenty-five boxes of pills there is about a drop of "mother tincture ;" in 250 powders we would get about one drop of "mother tincture ;" and had she taken all the medicine which I ever gave her which contained aconite, at one time, it would not injure her.

Cross-examined.—The diseases of the womb sometimes result very seriously ; I have made few post mortem examinations ; the last day she called at my office, the 21st day of last February, she got some medicine of me ; it was bella donna ; I think it was the last time I saw her ; her husband had called on me a number of times for medicine for her ; I sent them ; about the 1st of February she came in and complained of a pain in her head or her hip ; I prescribed for her then, as I did for her on the 21st, a few powders of bella donna ; I have prescribed for her before ; I did not consider

the disease of the womb as dangerous ; I recollect the prisoner coming in for me once and taking me out ; can't mention the time.

Direct examination resumed.—The last time I saw her she looked as well as usual ; her face was of the ordinary fullness.

Dr. Swinburne recalled.—The body of the deceased was in the same position, when disinterred, as when I left it.

Cross-examined.—After the first post mortem examination, I sewed it up, all but three inches ; I know they were my stitches.

Jane Bailey, for prosecution.—Resides at Warnerville, Schoharie county ; know the prisoner ; first knew him two years ago last summer ; got acquainted with him out there ; a contract of marriage took place between him and myself.

Cross-examined.—I was 21 the 4th of Dec. ; first saw prisoner two years ago the coming July ; first saw him at Mr. John Townsend's, at Warnerville ; he keeps a public house ; I lived there and did all kinds of work ; I came there the previous spring ; prisoner was two nights at Mr. Townsend's ; it was the second night he got engaged to me ; nothing but conversation had taken place before the engagement ; I never saw him after that until I saw him in jail ; I hope I did not go there to marry him ; this engagement was not in writing ; it was, I guess, known of ; have never been engaged before or since ; he came one night, and we were engaged the next night ; it had got along towards morning when we became engaged ; he left that morning, after breakfast ; I had no conversation the day he was there, except to say "good morning," until after tea at night ; I did not think the engagement a joke ; I asked him if he was in earnest, and he said he was ; of course I was ; we went together in the edge of the evening, and remained together till morning.

Aaron Hill, for prosecution.—Am a surveyor and engineer ; in the early part of May made a survey and diagram of Hendrickson's house. (A diagram was here shown the jury, and explained by the witness.)

William Alley, for prosecution.—Am now one of the deputy sheriffs of the county ; accompanied sheriff to Clarksville when he arrested Hendrickson ; it was on the 9th of March ; had some conversation with the prisoner about the death of his wife ; it was in the house of Mrs. Van Dusen ; the sheriff was sitting with him ; he asked whether "*they had found any poison ;*" I answered that "I did not know ; they had not got through with the examination ;" in the course of the conversation, he said, "*Suppose they had put poison in her stomach, yesterday, could it be known or ascertained ?*" I then inquired who he meant by "they ;" he said, "The physicians ;" I replied that "They would do no such thing ;" there was something said about a sudden death ; the prisoner stated they went to bed about 10 o'clock ; laid and talked about an hour ; his wife said to him, "Move along and give me more room ; I don't feel very well, and will try to get to sleep ;" he said he moved along, and there was nothing more said ; said "he was awakened about two o'clock, or it might be between two and three, by a noise in the barn,

which he supposed to be the horses ; found himself crowded, and said " Maria, move," or shove ; she did not move ; he then said he " tried " to move her with his hands ; she was stiff ;" he put his hand upon her forehead, and it was " a kinder cool ;" he then found she was dead, and alarmed the family ; I asked him if her appetite had been good about that time ; he answered, " I don't know but it was as good as usual."

Cross-examined.—This was between twelve and one o'clock of the 9th of March ; I believe they had then completed the post mortem examination ; it was the day of the funeral ; the prisoner had been arrested before this conversation took place ; I believe I made no remarks to prisoner before he addressed me.

David Young, for prosecution.—I reside at Clarksville ; know the prisoner ; knew his wife for some two years preceding her death ; on the morning of her death, saw her at Hendrickson's ; it was not far from nine o'clock ; I noticed in the corpse a fullness of the face greater than when living.

O. H. Chittenden, for prosecution.—Am a surrogate of Albany county. (The witness produced the record of the will of Lawrence Van Dusen, which was read to the court and jury.)

Maria Schoonmaker recalled for cross-examination.—I live about 4 miles from Mr. Hendrickson's ; have always lived at home ; have been acquainted with prisoner about a year ; I received the daguerreotype and ring from prisoner at a ball at Veeder's, a year ago last February ; he was sitting beside me, and opened the daguerreotype and held it before me ; I said " it looked very natural, I guess I'll take it ;" I took it and put it in my dress pocket, and got up and left him ; a short time after that he came and sat down beside me again ; he said, " Maria, how natural that ring looks upon your finger ; will you let me see it ?" I handed it to him ; I told him he might take it, if he would give me his in exchange ; he took it and I took his ; told him I would give it to him the next time I saw him ; I took it as a joke ; danced with him during the evening ; saw him again in the spring at Miss Lape's ; he asked me where the ring was ; I said I would give him his if he would give me mine ; he said he would bring or send it ; the next day he brought it, and I gave him his ; the daguerreotype was at my father's, and I told him I would send it by my brother ; have never seen prisoner at my house since his marriage ; if he has been there it was unknown to me ; he came to Mr. Lape's three times while I was there, but I can't say he came there to see me.

Direct examination resumed.—I think I have stated all the conversation that took place at Veeder's ; I don't remember whether he said anything about his marriage with his wife or not ; Hendrickson never did state to me that he was compelled to marry his wife, as I recollect ; never said anything of the kind, to the best that I recollect ; I think his wife was not at the ball ; it was in February, 1852 ; I can't recollect what I swore to before the grand jury ; it is a year, this month, since I last saw prisoner ; my family did not know that

I had the daguerreotype ; I kept it in my own room ; I have been twice to Messrs. Wheaton and Hadley's office ; I have been there since I have been subpoenaed upon this trial.

Cross-examined.—Had no conversation with Mr. Hadley.
Prosecution here rested.

The prosecution having here rested their case, Mr. WHEATON opened to the jury the case on the part of the prisoner, as follows :

OPENING FOR THE DEFENCE.

Gentlemen of the Jury:

I feel, on this occasion, peculiarly the responsibility of my position as counsel for the prisoner ; not so much on account of the testimony, as it has been given in and taken down against him—because, by what we have to offer on our part, we shall change its complexion so much you will hardly be able to recognize it—as in consequence of the extreme zeal that has been exhibited, ever since the trial commenced, by the public prosecutors, and the presumptuous positiveness of the medical witnesses. Never have I seen a case in which zeal on the one part, and temerity on the other, has been so openly manifested.

These medical witnesses have delivered their opinions, when they could not but be aware that a human life might depend upon them, with an oracular confidence which, to one experienced in the danger of placing too much reliance upon opinions founded upon such facts as they have disclosed, is truly appalling. And, gentlemen, this rashness and temerity in expressing, and obstinacy in adhering to opinion, appears to be peculiar to the medical profession, and grow, in a great measure, out of the manner in which their professional business is conducted. They have no tribunal, to which their professional opinions can be referred for review and correction, as we, legal men, have. They are dogmatical in asserting, and obstinate and rash in maintaining their opinions, because they are not in the habit of having them discussed and exposed, by men competent to show their weakness and fallacy, before a body able and authorized to decide upon them. If they had, the frequent rebukes they would receive, and the ridiculous exposures they would be subjected to, would make them cautious, prudent and modest.

With our profession, our opinions are so often found, on trial, to be erroneous, and so often overruled by the courts, to whose decisions we bow with the utmost deference, that the most confident and vainest of us soon become modest, and to lack, rather than have too much faith in our own opinions. With all men, however, one thing is justly, universally observed : the younger, less experienced, and less knowledge they possess, the more confidence and assurance they exhibit. These medical witnesses are all young men, with little experience in the practice of their profession, and I presume, from the confident manner in which they have delivered their opinions, of less knowledge from books. They exhibited, upon the stand, all the zeal of partizans, and in that respect were hardly excelled by

the public prosecutors themselves. Gentlemen, I wish to put you on your guard against this inordinate zeal, that has been exhibited here on the part of this prosecution, that you may see to it that it produces no improper impression.

Gentlemen, this is not the first time that I have been called upon to witness and resist the over-zealous efforts of the public prosecutor to convict the guiltless. One instance is now fresh in my memory where he pursued a prisoner, charged with the crime of larceny, with the same hostile and uncompromising spirit as on this occasion; when it subsequently appeared, by the confessions and punishment of the really guilty, that he was as guiltless as the prosecutor himself, and was saved from conviction mainly by the firmness of the court.

But, gentlemen, without further preliminary observations, let us proceed to the case before you.

And, first, let us see what is the issue you are to try.

In every charge of murder, there are two main questions involved: First, has a murder been committed? and, Secondly, if there has, who is the murderer? And these questions are generally decided upon different and distinct testimony.

If you find a person has been murdered, that the crime has been committed, you then look abroad to find the murderer, the criminal.

As far as my experience has gone, heretofore, the public prosecutor has always considered it his duty to take the first step first; first prove a crime had been committed before he has attempted to find a criminal. On this occasion, however, he has reversed the order, and has gone abroad for a criminal before he has shown a crime to have been committed. He had an object in this, I suppose, and I could easily imagine what it was.

You saw, gentlemen, with what care you were chosen, from the great body of the people, to form this jury. It was done because a human life was to be committed to your charge. On your determination the life of a human being was to depend. The humanity of the law requires, in such cases, a jury that is entirely indifferent, unprejudiced, free from bias—looking upon the prisoner as a fellow-citizen, innocent till proved guilty. But, after you had been thus cautiously selected, what was the course of the public prosecutor? Before you were permitted to hear one word of the evidence, for or against the prisoner, he addressed you for hours in a strain of remark calculated to excite your indignation and rouse your passions and prejudices in the highest degree against him,—exhausting his vocabulary of opprobrious epithets upon him, and accusing him of all the crimes of the decalogue.

Was ever such a course taken before by a public prosecutor? Instead of stating, what he expected to prove, for your consideration, without comment, and leaving it to make its legitimate impression upon your minds, he colored it and mixed it up with his comments till it presented a picture too horrible for the mind to contemplate. Why was this? To enable you to receive the evidence unbiassed, and weigh it coolly and dispassionately? And why did he take this unusual mode of presenting his evidence? To prove the prisoner might be guilty of a murder, before he proved or attempted

to prove a murder committed ! Surrounding him with suspicions of crime before producing the evidence that any crime had been committed !

It was to blacken his character and excite prejudice ; so that you might receive, with more favor and less hesitancy, the material testimony as to whether the deceased was murdered or died from natural causes—which is *the* great turning point in this case. But to return again to the case.

To prove a murder has been committed, two facts must be established : first, that the deceased did not die of natural causes ; and, secondly, did not die of her own hands.

These two facts being proved, to the exclusion of every doubt, you then look round to find the hand that caused the death ; and the law then presumes whoever did it is a murderer, and throws the burden of proof on the party charged to show the mitigating circumstances, if any, to reduce the crime to one of a lower grade.

But, gentlemen, in this case there will be no question as to the grade of the crime. If the prisoner's wife died by his hands—if he be guilty at all—if he be not as guiltless as either you or I of the crime charged against him—he is guilty beyond the hope of redemption. If he took the life of that young, loving and confiding wife, in the manner suggested, there is no depth of crime which the human imagination can fathom below the deep to which he has sunk. Its very enormity makes us shudder, and shrink back, hesitate, and doubt.

The theory of the prosecution is, that the deceased died of poison administered by her husband, and that poison was aconite, which he purchased of Burroughs.

Have they sustained it by evidence ? If she did die by poison, have they proved it was not administered by her own hand ?

a They offer two processes of evidence to sustain their charge : First (for the most important, if established) is, that the poison was found in her body. Secondly, the post mortem appearances indicating death by poison.

Gentlemen, we shall prove, I think, to your entire satisfaction, that no satisfactory reliance can be placed on the evidence to sustain either of these facts, and that they are both fallacious ; that the most that can be said of them is, that they render probable what they are used to prove conclusively.

That they leave the fact in doubt whether she died of poison or by other than natural causes. If that shall turn out so, the case will end at its first step.

Gentlemen, to determine the question as to whether the deceased was murdered, the medical and chemical testimony is alone to be depended upon, and should be considered apart and by itself, irrespective of the other circumstances which, after having determined the first question, that she was murdered, will be proper for you to consider, in order to find out who was the murderer. No matter what the prisoner has said or done—no matter that he may have bought aconite of Burroughs—inquired for prussic acid of Springstead—said they would not find arsenic in her stomach, or used his wife badly—if it is not proved she died of poison, then there is an end to this pros-

ecution. After it is once clearly proved she came to her death by poison, these surrounding circumstances become material on the question, by whose hand was it administered.

But supposing, for a moment, the body of the crime is proved to your satisfaction, let us look for a moment to see what weight shall be attached to these circumstances in determining the criminal. And first, what circumstances are proved, and more conclusively proved, because you can draw no inference against the prisoner from a fact till it is fully proved. The inquiry for prussic acid from Springsteed, taken in connection with the fact that his sister sent to Albany by him, that same day, for muriatic acid as a tooth wash, and that he did not get for her what she sent for, renders it quite probable he made a mistake, and inquired for the wrong article. If he had made up his mind to poison his wife, would he have been likely to have gone to his friend, Springsteed, where he was well known, to get the poison to do it with? a poison, too, the very name of which would excite attention. What folly to suppose it! Then, as to the conversation between the prisoner and his wife, related by the witness, Mrs. Van Dusen, in which she says his wife charged him with having, at one other time, got poison for her, what did it amount to? He asked his wife, when he was coming to Albany, if he should get her some medicine, and she replied "No, you will get some more of that poison you got for me last summer, which I burnt up and would not take." What did she mean by this? the witness herself says, it is not unusual to call medicines poison; she has heard it called so; is it not likely that she referred to some kind of medicine she did not like to take, and which she applied the term of poison to? Would she ever have trusted herself to live with the man she thought had attempted to poison her? Did her mother believe the charge to be serious, and still permitted her daughter to live with a husband that had attempted to take her life by poison?

She did not take it; she burnt it up. How did she know it was poison? Did he tell her? Let us not dwell upon follies like these. To show his want of affection to his wife, the case of Miss Bailey, from Schoharie, is introduced.

This is gravely brought forward here to prove he had seriously intended to marry her, and had fallen desperately in love with her, and therefore wanted to get rid of his wife. He never saw her before or since. The only acquaintance he had with her was on one night, and between the hours of six in the evening and four o'clock the next morning. And then this extraordinary courtship took place, and the matrimonial engagement was made—which, as far as the proof shows, he has never thought of since. On such evidence as this, you are called upon to infer he desired to murder his wife and marry another woman. Is this evidence on which to hang a man? Why, gentlemen, Schoharie is a place noted for short courtships. I have been in Schoharie, and would not like to disclose all that I have done there. Why, the counsel was ashamed of the proof when he had made it, and others were ashamed of him for making it. Then, too, they bring proof of several family quarrels between the prisoner and his wife. Why, gentlemen, in my own experience I have seen such things frequently; and have found, in

my own case, that "the acidulated drop gives sweetness to the rest;" and that these little jars only serve to render the remainder of the family intercourse more pleasant and endearing. Then, is there proof that he is the man who purchased the aconite of Burroughs? He cannot be the man, if Burroughs told the truth when he was sworn before Cole. The man who bought the aconite was about the same size with himself. You saw them stand near together; the difference was as between a pigmy and a giant. Again, where is the proof of his lack of affection for his wife? All the witnesses who have spoken upon the subject, and we shall add largely to the list, declare he has always exhibited the most marked fondness for her. I must, however, except his mother-in-law. But she was obliged to admit that he appeared to be very fond of her; but she was charitable enough to believe that it was hypocritical. Her idea is, when he treated her unkindly, he was serious, and when kindly, it was hypocrisy.

Now, gentlemen, what is the position of this case, on the proof, as it stands?

The prosecution relies on the opinions of two witnesses to prove this woman died of poison; both young men, with little experience, and, I am afraid, from their bold and positive manner upon the stand, of less sound knowledge,—witnesses who announce their opinions as oracles on questions where you will find, from our proof, the wisest and most learned of their profession doubt and hesitate.

But, it is upon the opinion of their chemist, I suppose, that they will place the greatest trust. His testimony, they will seek to make the point on which this case must turn. He swears he found the poisonous principle of aconite in the woman's system. He is not willing to admit any doubt of the fact. I admit his testimony to be important. But, gentlemen, we shall show, by oral proof and written, from the living and the dead, from books and from the mouths of men, that no safe reliance can be placed upon his evidence. We shall show to you, further, that if he has accomplished what he swears he has—removed the aconitine after it has even been absorbed into the woman's system, isolated it, separated it, so as to see and feel and taste the thing itself, he has done what all his predecessors and cotemporaries have failed to do, and given up in despair of effecting. But, gentlemen, at present I will detain you no longer on this part of the case.

But I might ask you, here, how came the prisoner to know that the tincture of aconite was a poison? He is an uneducated country boy. What is poison in the country? The only poison known or spoken of in the country, among farmers, is arsenic, the poison used to kill vermin. How did Dr. Salisbury understand it, knowing when the act was done and who was suspected? He tested for all the mineral poisons, going through the whole catalogue, beginning with arsenic, and then with the vegetable poisons, coming at last, and at the very last, to aconite. Why was this? Because he was aware it was a poison not known to any but physicians and chemists, and persons making the subject of poison their study. How then did this boy learn that aconite was a poison? Who told him? Where is the man? Did he get it from a book? When? Where? Is there a

person in all this great assemblage, including you, gentlemen of the jury, and the honorable court, that, before this affair happened, ever heard of the poison of aconite? No, not one. Where then did the prisoner gain this knowledge?

Gentlemen, Salisbury never found aconite in that woman's viscera. He may believe he did; he has worked hard to make himself believe it; he has killed numerous cats and dogs to persuade himself to the belief. But if he swore to the truth that he had got, as the result of his analysis, from one-twentieth to a twenty-fifth part of a grain of the aconitine—got the powder, got it separated, saw it, tasted it, he need not have gone further. He had only to preserve it, show it to other chemists, apply other tests to it which science has established, and tasted it himself more than once, and finally brought it into court here, shown it to us all, and let us taste it, as he states that taste is the true test. He has done no such thing; he rested the whole on the foolish experiment upon the cat. He has thrown away his opportunity of making the question sure. He has deprived himself of the power of retreat from error, and now, to compensate for his folly, comes here and makes up in confidence what he wants in knowledge.

Gentlemen, they tried the experiment several years ago in France, of executing men on the truth of chemical theories; but they soon found that they could not bring the dead men to life, when the theory, upon the faith of which they were executed, was found untrue and exploded. Chemists, they found by dear experience, could change their opinions, but "the sword of justice could not retrace its steps."

Physicians could grow wiser, and correct their errors of opinion, but the correction of the error upon which his life was taken did not reanimate the dead. And the courts in France profited by the lesson. Salisbury may live to learn that his opinion, given with such boldness, is false; but if you confide in it now, what benefit will it be to the prisoner? The witness may repudiate the opinion, but that will not disturb the unbroken silence of the grave. Swinburne may change his opinion, and doubtless will, if he reads his books or consults his medical associates; but if you credit him now, the prisoner will not live to hear of the change; he will have slept the sleep that knows no waking.

But, gentlemen, I might ask you, here, why was it that the public prosecutor relied solely on these two young men? Why not call some of the older and more experienced in their profession to confirm their opinions? Ought he not to have done it? Did you not expect it? Did you not desire it?

But, gentlemen, I have now gone hastily over the testimony, as we propose to present, and if we succeed in establishing the facts, as I have sketched them to you, what will then be your opinion of the case?

The learned counsel then closed by a beautiful and touching expression of sympathy for the mother of the deceased, in the loss of a young and lovely daughter; contrasting it, however, with the deeper, more terrible, and lasting grief of those who should see a son, in the prime of life, die an ignominious death upon the gallows.

EVIDENCE FOR THE PRISONER.

Louisa Haswell, for defence.—I reside in Bethlehem; recollect the night Mrs. Hendrickson died; I was at church that night with Wendel Oliver; Mr. Oliver accompanied me home; he remained at our house some time; he left there after 2 o'clock; he was in my company until he left; there was a clock at the house; the clock was correct; I should think it was 15 or 20 minutes after two when he left; I know it was that time, because I heard the clock strike.

Cross-examined.—Oliver was at our house the Sunday night previous; it was after two o'clock when he left that night; I should think it was 15 or 20 minutes after two; don't know whether he was there the Sunday before that or not; he was there some Sunday night three or four weeks previous to that; I do not know what time he left then; I am a sister-in-law of Matthew Hendrickson, brother of the prisoner; I don't know whether Oliver heard the clock strike or not.

Direct examination resumed.—My attention was called to the time the clock struck, from a week to two weeks after Mrs. Hendrickson's death.

Cross-examination resumed.—Don't know who called my attention to the striking of the clock; don't know whether it was called to it before or after Oliver was sworn before Esquire Cole.

Maria Haswell, for defence.—Am the mother of last witness; recollect the night Mrs. Hendrickson died; Wendel Oliver was at our house on that night; I heard the clock strike before he left; it struck two; heard him go away; it might have been twenty or more minutes after it struck; was at Hendrickson's next day; saw the body of Mrs. Hendrickson; had known her intimately for over two years; the body was down stairs, and had been laid out; saw her face, noticed nothing at all unnatural about its appearance; had been in the habit of seeing deceased and the prisoner together previous to her death; so far as I know, they seemed to live very agreeable.

Cross-examined.—Prisoner and his wife had not called at our house more than once in three months; she called once, about the last of February; stayed about half an hour; saw her during that time as often as three times at Mrs. Hendrickson's; her health was not bad when I saw her; the clock was in the room where I was; my attention was called to its striking, within a week or two afterwards; can recollect no Sunday night, before or since, that I have heard it strike; my attention was called to the striking of the clock before I heard that Wendel Oliver was sworn before Cole; can't say who called my attention to it.

Alida Hendrickson, for defence.—Resides in Albany; resided here in March last; knew the deceased; a year, the last spring, she

spent between two and three weeks at my house ; the prisoner spoke to me about taking her as a boarder for a few weeks, as she wanted to spend that time in the city ; I told him I could not take her as a boarder, but she would be welcome as a visitor ; she came there because she was not well, and wished to consult Dr. Springstead ; she stayed there between three and four weeks ; the prisoner was there three or four times, perhaps six or seven ; sometimes I didn't see him ; never saw anything between them but what was pleasant and agreeable ; she used to express a desire to see him, and appeared to be pleased.

Alida M. Carty, for defence.—A year ago, last spring, I resided with Mrs. Alida Hendrickson, in Albany ; was there when deceased was on a visit ; I think he called two or three times a week ; I saw them together ; they seemed to be glad to see each other, and always seemed to treat each other well.

Adjourned till to-morrow (this) morning at nine o'clock.

ELEVENTH DAY.

FRIDAY, June 24.

Court met at 9 o'clock.

William N. Haswell, for defence.—Resided in Bethlehem in March last ; was acquainted with deceased ; am the husband of Maria Haswell, who was sworn yesterday ; the clock in our house correct with Albany time and by the sun.

Maria Vadley, for defence.—In July last lived in Bethlehem ; knew deceased, who was at my house 5th of July morning ; this was on Monday, and she remained till Tuesday morning ; prisoner brought her there ; during that time he was there one night, and was there nearly all one day ; there was nothing between them that I thought unkind, or as though he did not treat her well ; I live 8 or 9 miles, I think, from Hendrickson's ; she came there, I think, mostly because she wanted to see the Doctor ; I live at the edge of the city.

Miss Christiana Hendrickson, for defence.—I reside in Albany ; my father is dead ; I visited Mrs. Hendrickson's about the 1st of March last ; stayed a week ; prisoner's wife was staying there ; his conduct towards her appeared to me very kind and affectionate ; she seemed very affectionate towards him.

Cross-examined.—I left in the early part of March ; I slept in Matthew's bed-room ; prisoner and wife, I think, slept in Mr. Hendrickson's bed-room, down stairs ; I did not see them sleep in the same bed-room ; deceased was cheerful and lively during this time ; I think she took her meals with the rest of the family ; I do not know of a time that she missed her meals.

Direct examination resumed.—During the time I was there, a Dutchman was working there ; he slept up stairs, but I cannot say in what room ; I left on Sunday.

Daniel O'Brien, for defence.—Resides in Albany ; knew the prisoner and the deceased ; during the past two years I have lived

part of the time in Bethlehem and New-Scotland; have seen prisoner and his wife together at different times; last summer I worked for Matthew Hendrickson; was there the best part of a month; whenever I saw the prisoner and his wife together they seemed to be very affectionate towards each other; knew prisoner's wife before they were married.

Cross-examined.—Saw prisoner and wife together last summer; I was there during the afternoon; we sat talking together; I saw them together again at Hendrickson's the week after that; I staid there about an hour; can't say if deceased was present all the time; have seen them together before these times, but cannot recollect when; I have seen deceased five or six times at Mr. Van Dusen's; I saw prisoner and her together there last summer; they were together about an hour. (Witness mentioned several other scenes he had seen there.) On one occasion I was with prisoner and asked him to go to Albany with me; this was some time last fall; she said he might go.

Direct examination resumed.—Saw deceased on the morning she died; she was in the parlor; I thought she looked just as though she was laying asleep, she looked so natural; do not know that I noticed any peculiarity in her countenance; of course she looked paler than when alive.

Cross-examination resumed.—I did not pay much attention to her to see how much paler she looked.

Peter Van Wie, for defence.—Reside at Clarksville; knew prisoner's wife; have had an opportunity to see them together at different times; have seen them at her father's, also at my mother's, and at Mr. Young's; their conduct was kind; lived about four hundred or five hundred yards from Mr. Van Dusen's.

Gerrit G. Long, for defence.—Live in Albany; last summer worked for Matthew Hendrickson; knew deceased; she was living at Hendrickson's when I was there; think I saw her five or six times while I was there; she was there some three weeks at one time while I was there; she would come and stay some two or three days, and sometimes longer; have seen prisoner and herself together; I did not see but what they agreed together; I never heard any difficulty between either one of them.

Cross-examined.—I slept up stairs in the attic bed room where John and his wife was; slept there all the time; went there in May and staid until September; John and his wife sometimes took their meals when I did; she appeared in good health.

Catharine Hendrickson, for defence.—Am mother of prisoner; was at home the night of his wife's death; I was quite sick with a cold that night, and had taken something to cause perspiration; I did not go to church that night; staid at home; during the last year of her life, prisoner's wife had been at my house probably five months; they were in my family, and ate at the same table; we were pleased to have her there; never heard any difficulty between them; they appeared to show a great deal of affection towards each other; he was very careful of her in regard to her health, and would

caution her lest she should take cold; she was very much out of health, and he would get medicine for her, when she wanted it; a short time before her death he was afraid she would get her feet wet, and went and got her overshoes and put them on for her.

I have never seen him treat her unkindly; he was twenty-one the first of last April; it was about ten o'clock Sunday night that they got home from church; they came into my kitchen and where I sleep; prisoner and his wife retired at nearly 11 o'clock; they usually slept in the attic bed-room, where they were the night of her death; that Sunday she complained of her hips, back and head; she spoke particularly of a distress on the top of her head; she had had homœopathy medicine, which she carried in her pocket; she said but very little after she came from church; after coming from church she read the Bible, and some in a religious paper; prisoner and his wife retired first, leaving me up; I had taken ginger tea; I could not lie down, but had to sit up in the bed; I sat up in that way till John called out; hadn't been asleep at all; I had, until I heard him call, heard no noise in the house as if any one vomiting; the walls of their bed-room was lath and plaster; from the room they slept in there is a little window opening on to the roof of the part I slept in; that window has slats nailed across; they are about six or eight inches apart; do not think a person could vomit in that room without my hearing them; could hear them talk, unless they talked low; after prisoner gave the alarm, Matthew was the first person in the room, and I the second; Matthew took the light in; I saw her laying on the bed, near the middle of it, and prisoner was sitting up in the back part of the bed; I looked for something to rub her with; couldn't find anything, and told Matthew to get some camphor and water; he went down and got it; I shook her hand, pushed up her sleeve, and commenced rubbing her arm; at that time his father, Catharine and Maria were up there; I rubbed one arm and his father the other; Catharine poured camphor on her stomach; I then loosened her night-cap; pushed it back, and rubbed her temples and face with camphor and water; we then took and raised her up; prisoner assisted in raising her, to try to get something in her mouth; I opened her mouth and tried to get camphor and water in; I took my fingers and tried to get her mouth open; opened her teeth and put in the camphor; we then laid her down; don't recollect whether we rubbed her any more or not; can't recollect anything else that occurred till Meads' folks came; the bed or bed clothes had not been disturbed; they came there very soon after I went down stairs to dress myself; had just got dressed when they arrived; when the Meads came, I went up with them; the body and everything were just as I had left them; I did not discover on the bed, bed clothes, or anywhere, any symptoms of her having vomited; I loosed her night cap; she had a very beautiful, thick head of hair; I found it smooth and no way disarranged; there is no way to get out of that room except through Matthew's kitchen; the stove pipe goes up from Matthew's stove into their room; the chamber contained nothing but urine; John appeared to feel very

bad; he did not cry out, that I know of; it was, I think, on Saturday that I heard her complain of a sore lip; she merely put her finger on her lip when she spoke of it; I did not notice it that night when I opened her lips; I thought the corpse looked very natural; her night clothes and the sheets of the bed were tied up and put under the bed; it was done after she was laid out; they lay there eight days before they were washed; they were washed by Mrs. Waldron, who lives in the neighborhood; she is here; Matthew and the prisoner were in Albany on Monday of the week previous to Maria's death; they were also in town on Saturday afternoon; they were home Tuesday; the Saturday before Maria's death, myself, daughters and daughters-in-law went on a visit to Mr. Slingerland; did not eat dinner before we went; the last meal taken at our house was about two o'clock on Sunday; took dinner and tea together; we had sausages, tomato pickles and other things; my daughter-in-law sat at the table; I did not notice whether she ate anything or not; she said she "did not feel like eating;" she pushed back from the table; she was very fond of tomato pickles; the day of the post mortem examination, Mrs. Van Dusen said, "John, Maria must have died of a fit;" he said he "thought if she had it would have awoke him;" she said, "You know when she had fits, she could only sometimes straighten out;" he said, "I have seen her in so many shapes, I can't tell."

Cross-examined.—I was examined before the grand jury in this case; it was between eleven and twelve on Saturday preceding Maria's death that we left to go to Slingerland's; we took breakfast at six o'clock that morning; I am quite confident we didn't partake of any dinner before we went to Slingerland's; Mrs. Slingerland asked us to partake of dinner when we got there; told her we had been to dinner; did not take dinner there; prisoner's wife stood at the table, and took a piece of johnny cake; do not think she took anything else; she drank a little tea; we took tea there; John and wife partook with us; previous to this time, Maria had been in the habit of taking her meals with the family; I do not recollect of any day, previous to Saturday, of Maria's pushing away from the table; that Sunday morning Maria sat at the breakfast table; think, like enough, she did eat; I recollect that my husband partook of breakfast that Sunday; my daughter Maria ate breakfast also; did not notice whether John took breakfast or not; have no recollection whether deceased ate or not; on Sunday, at dinner, deceased sat down at the same time with the rest of the family; can't tell how soon Maria shoved back; the others sat there about half an hour; she was there but a very few minutes; she got up and left the table; staid in the room; they came home from church about ten o'clock; all retired about the same time; Maria read aloud from the Bible; was engaged but a short time in reading the paper; did not see her or John go to the pantry before going up stairs; do not recol-

lect that one of them went there to get a light before going to bed; I had set a light in Matthew's kitchen for them; my husband, I think, retired to bed before I did; after we had retired, the house was very still; if there had been loud talking in the room, I could have heard it; Maria had a broken tooth in her mouth; I put my finger into it to open her mouth; her teeth were shut together; I put them apart with my fingers; I don't recollect that I had any trouble in doing it; do not recollect that I swore before grand jury that I pried them open with my fingers; do not think I swore I could not get them far enough apart to get anything into her mouth; if I did I was mistaken; I don't know that I injured her lips; the first noise I heard was John when he called for a light; as near as I can recollect, he cried, "Matthew, bring a light!" after I had got up stairs prisoner said he was awakened by the noise of the horses; that he thought that she crowded him; laid near the middle of the bed; that he said, "Maria, shove;" she did not answer; that he shoved her a little; that he turned round, took hold of her, and she appeared to be weighty; he put his hand on her head and it was cold; he then called out; he said that after going to bed she told him to turn around, that she did not feel very well and would like to go to sleep; that they had laid about an hour talking; after I came up he called her by name several times, "Maria! Maria!" I did not think her dead when I came up; her face was cold; the bed clothes were turned over from her chest; one of her arms was lying down by her side; she appeared to be asleep; looked pale; found no vial or drinking vessel about the bed; Maria was quite a fleshy woman; when she came home that Sunday evening she did not appear to be very lively; did not swear before grand jury that she was lively the evening she came from church; it was up stairs that John had the conversation with me which I have related; I think I did not swear before the grand jury that John had not said one word to me about Maria's death; do not remember swearing before grand jury that John's calling out woke me up, or that I did not know which woke first, myself or husband.

Direct examination resumed.—There was no vessel in the room, that I saw or heard of, except the chamber; Catharine Ann brought the camphor up in a vial; I should think it was about eight o'clock in the evening that I left the light for John in Matthew's room.

Nancy Waldron (colored), for defence.—Lives in Bethlehem, a mile and a half from Hendrickson's; occasionally do washing for them; heard of the death of Mrs. Hendrickson; didn't know her; nine days after her death did washing for Mrs. Hendrickson; there was a bundle of clothes—bed clothes, and lady's night clothes—handed me by Miss Maria; there were no stains on any of those sheets or clothes which resembled vomiting; I examined them before I washed them.

James Schoonmaker, for defence.—Am father of Maria; know prisoner; have not known him to be at our house since he was married.

Catharine Schoonmaker, for defence.—Know prisoner; is mother of Maria Schoonmaker; don't know of prisoner ever being at her house since he was married.

Maria Hendrickson, for defence.—The bundle of clothes I gave Mrs. Waldron to wash contained the sheets which were on the bed, and the clothes which she wore the night she died; the Monday before she died John and Matthew were in Albany; they said they had been there; on Tuesday, I believe, they were engaged in drawing logs; on Saturday they had been, she said, to Albany; I was at home when they returned.

Cross-examination.—It was on Monday, when he was going to town, that I asked John to get me muriatic acid; I will swear positively that it was not Tuesday; I recollect from the fact that I had commenced a letter on Sunday, and could not finish it in time to send by him on Monday; to my best recollection, both my brothers were at home all the week but Monday and Saturday; I will not swear positively as to John not being to Albany on any other days but those during the week; he was not there Tuesday or Wednesday; but I cannot swear positively to Thursday or Friday.

Ann Eliza Veeder, for defence.—I lived at the public house kept by Haswell on the plank road, four miles from Albany; I am the aunt of the prisoner; know his wife; she staid a week with me last fall, or a fortnight before Christmas; she visited me a week in January; her husband called frequently to see her; he would sometimes stay over a night, and a portion of the day; they appeared to be very friendly; she very glad to see him, and he her; they showed a great deal of love for each other; heard of no unfriendly feelings between them when they were at my house.

Cross-examined.—On the 22d of February last there was a ball at our house; prisoner and his wife were there; she went home; they said her husband staid at our house that night.

Houck Houghtailing, for defence.—Live in New Scotland; knew prisoner and his wife; seen them at my house last fall; they staid there a day; a year ago, last fall, they were there; they came in the morning, and went away in the evening; said nothing more than is usual between man and wife.

(Mr. Wheaton, for defence, here made a proposition to the District Attorney, that if he would name any other witness, except prisoner's mother-in-law, who could swear that he ever treated her unkindly, he (the prisoner's counsel) would call him or her on the stand, and the District Attorney might examine them)

(The District Attorney responded by making a proposition also, and that was, if Mr. Wheaton would allow the prisoner to put on the hat and coat which had been produced into court, he, Mr. Colvin, would call Burroughs on the stand, and prisoner's counsel might examine him.)

Matthew Hendrickson, for defence.—Am a brother of the prisoner; Catharine Ann Hendrickson, one of the witnesses here sworn, was my wife; the night that Maria died I heard no noise, nothing that attracted me, until John called for a light; I was the first that got into the room; I have not heard the whole of the testimony of my mother, sister or wife; I went after Mr. Meads and his wife; it might have been ten minutes after the alarm that I went for them; there was a light in my room when I was alarmed; the week previous to Maria's death, I was in town twice, on Monday and Saturday; it was on Monday John and I passed Springsteed's; I was going to widow Hendrickson's; I went in there; prisoner went by Springsteed's a little way; I went on and he turned back; it could not have been more than five minutes before I saw prisoner again; he came into widow Hendrickson's, where I was; we remained a short time, when we went to Veeder & Bates', lower down than Springsteed's; we remained there till we hitched up our horse; we came in a one horse wagon; we got home at three or four o'clock; were at widow Hendrickson's between one and two o'clock; have lived at my father's; as far as I could see, the intercourse of prisoner and his wife was always pleasant; never have I seen him treat her unkindly; when I got into the room, I saw no indication of vomiting, or any vessel by which it could have been removed.

Cross-examined.—I do not know that I did swear, before the grand jury, that the only time I came to town the week before Maria's death was on Saturday.

Adjourned till 3 P. M.

AFTERNOON SESSION.

The court met at 3 o'clock.

Matthew Hendrickson—Cross-examination continued.—I was sworn before 'Squire Cole and the grand jury, in relation to this matter; do not know that I did make a statement before 'Squire Cole in relation to my not being in town any other day than Saturday; don't recollect how I swore before the grand jury as to where I parted with prisoner that day; the first thing I heard John say, when he called, was to bring up a light; he said, "Matthew, bring a candle up stairs;" I took the candle from a chair which stood at the head of the bed; I lit it by the lamp which was on the table; did not swear before the grand jury, according to my recollection, that I took the candle from a chair at the head of the

bed, and went to the mantel and took a match and lit it; that there was no light in the room; we always keep a candle at the head of the bed; I was the first one up stairs; had not been up there before that time that night; deceased was lying on her back; the clothes were up to her chest; I do not recollect saying anything to him about how it happened; John was in the back part of the bed when I came up; don't recollect whether he made any remarks when I came up; was up but a few seconds before Maria came in; I did not, nor did the family, think her dead when I went for Mr. Meads; took a horse and cutter when I went to Mr. Meads; did not walk my horse all the way; did not swear so before the grand jury, or that I trotted him part of the way; it might have taken me four or five minutes to have gone to Meads' after I had started; I helped to bring the body down stairs; had hold of her legs; her limbs were a little stiff; they were not limber; think I did swear before 'Squire Cole that her legs were stiff; don't recollect that I swore to the same before the grand jury; I will swear positively that I was not in Albany the Tuesday and Wednesday preceding Maria's death; was not at a horse-race on Monday; prisoner was with me all the time I was in town on Saturday; he was away from me only about half a minute; that was when we were going down Pearl-street; don't know Mr. Briggs' store in State-street; I was not in a drug store in this city that day inquiring for strychnine; never heard John's wife find fault with him and myself, at our house, for playing cards; don't recollect swearing before the grand jury that I would not swear positively that I was not in town on the Tuesday or Wednesday previously.

Dr. Barent P. Staats, for defence.—Am a practicing physician in this city; have practiced for 35 years; have had an extensive practice during that time; if I was called upon to make a post mortem examination of any person who was supposed to have died from an irritant poison, I should first look for traces in the mouth and throat and then in the esophagus, and from there follow it to the stomach and bowels; I heard the testimony on Dr. Swinburne's examination; after hearing the testimony, as given by him, it would not be satisfactory to me that she died of an irritant poison, nor by any poison; from the testimony of Dr. Swinburne and Dr. Salisbury, as to the condition of her stomach and intestines, and what they found in them, it would be no evidence to me of violent vomiting; it would be no evidence that she vomited at all; I never saw, knew or heard of a case where a person had passed all the contents through the mouth, unless there was a mechanical obstruction, caused by hernia, or by one bowel pressing into another; a person, to discharge all the contents of the small intestines through the mouth, would require three or four hours; the intestines are divided into three parts; the first is the duodenum, signifying "twelve;" it is supposed to be

generally twelve inches long; the next is jejunum, which means "mostly empty;" this is about ten feet in length; the illium is next, and is about fifteen feet; this is the lower of the small intestines; if there is no mechanical obstruction, I never knew a case where the small intestines were emptied out of the mouth; I never knew a case where this occurred where there was purging; a person vomiting in this way would have violent retchings, and the noise would be considerable. (A diagram of Hendrickson's house was here shown witness, when he stated that the noise which would be produced by such vomiting could be heard all over the house.) I have administered a great many emetics and seen their operation; I should think in cases of violent vomiting it would be impossible for the bed clothes and night clothes to have been in the condition of those described in this case; something must have escaped which would have left stains; the limbs of a dead person, generally, come to their full rigidity in 30 hours; have known the muscles of the jaw to become stiff in a very few hours; the jaws are generally tied up after death; they fall down mostly after death, commonly do so when not tied; much depends on the situation of the head, something on nature of death; did a person die in a fit, the jaws would probably be closed; if from exhaustion or vomiting, they would be open; if the blood was thrown to the extremities, as supposed by Dr. Swinburne, there is no reason why it should not be thrown to the brain, which is one of the extremities; in case of death caused by violent vomiting, I should expect generally to find congestion of the brain; in cases of persons dying from vomiting they are prevented from breathing naturally; the blood is not oxydized, the lungs do not act, and the blood being thrown to the brain cannot return; I should expect to find the skin of a leaden color, the blood not being oxydized; people who die of cholera, where they died of vomiting, have a large effusion of blood in the eyes and brain.

Cross-examined.—I am a surgeon; have made post mortem examinations; not so extensively as Dr. Swinburne, I presume; I have assisted in dissecting and making post mortem examinations of thirty or forty bodies; I have not made more than perhaps half a dozen post mortem examinations with a view to ascertain the cause of death; by dying in a fit; I mean a convulsion, when a person is attacked by violent spasms; I believe that persons die in a fit without the lesion of some vital organ, and in such case we may not be able to find the cause; there are cases of death by fear; in such cases I should expect to find the heart full of blood; I should expect to find the veins full of blood, but not all the large arteries; there would be a paralysis of the heart, and the blood would not be thrown from it; should not expect to find much blood in the brain for the same reason; I would not expect to find vomiting; should expect to find the stomach and bowels in a normal state; should expect

to find the lungs collapsed ; and the urinary bladder same as in ordinary cases ; the gall bladder also ; delirium tremens is another ; in some cases the brain would show the marks, and in some, not ; should expect to find them in the stomach ; I am not sure but that in cases of death by delirium tremens, the stomach would present very much such an appearance as the stomach in this case ; it would be corrugated and very much contracted ; I regard alcohol as a poison, and I think pure alcohol an irritant ; in many cases of apoplexy, I believe one would not be able to discover any assignable cause for death ; in such cases should expect to find all the organs healthy ; in epilepsy generally should expect to find effusion on and congestion of the brain ; I cite death by prussic acid as another instance ; unless you find the poison in the stomach, you have no assignable cause of death ; death in this case would be through the action upon the nerves ; should expect to find all the organs in a natural condition ; in the case of a sun stroke, I have heard of brains being opened and no marks discovered in the brains ; sudden joy has caused death ; and the post mortem appearances would be the same as those in the case of fear ; I do not think I ever did dissect for the purpose of finding the cause of death in either of the cases I have mentioned ; I got my descriptions of the appearances they would present from my reading ; and I do not know that I have ever dissected to find the cause of death in any case of death by mineral irritants except arsenic ; I have in cases of opium ; in cases of irritant poison I should expect to find inflammation of the throat, stomach, bowels and the meat pipe ; there might be a corrosion, but not without it was a metallic irritant ; should not expect to find anything else very indicative of poison in cases of an irritant ; the mucus membrane might be inflamed ; if the stomach were empty, should expect to find it contracted ; if a metallic irritant, should expect to find the stomach empty from vomiting ; I should expect vomiting because the irritation would produce inflammation, and the inflammation would produce vomiting ; should expect to find vomiting in all cases of poisons, where they are irritant, were the dose large enough ; where the stomach is emptied by an irritant poison, should expect to find inflammation and contraction ; should always expect to find it so when it was emptied ; strictly speaking, inflammation and congestion are not the same thing ; inflammation is disputable ground, on which the profession differ ; I should say, from the descriptions of this stomach, that there was inflammation and contraction in this to a great degree ; here we have two prominent evidences of vomiting ; I can't tell of a single disease, in my knowledge, that will produce these two appearances without vomiting ; I don't know of any such disease ; the appearance of the bladder merely showed that she died soon after going to bed ; I think the disease of the womb produced the contraction of the urinary bladder ; the contraction produced by the inflammation might be produced at intervals if

it was spasmodic contraction; it is owing to want of secretions of the kidneys; I could not say whether I would expect to find contraction in such a case as this after death; I never saw one; in that case the bladder might be perfectly healthy; if healthy, they collapse; the shape is changed, though the diameter would remain the same; I have never seen such a case; I get my opinion from reading Bell's Anatomy; if I found the gall bladder more than half empty, I would not deem it an indication of vomiting; have seen a gall bladder entirely empty without vomiting, and there being no unhealthy action in any other part; the gall in the bladder is a safety fund; it is put there for ordinary use in every meal, and to aid in digestion; the liver only throws out gall into the gall bladder; it may pass into the gall bladder, and so to the duodenum, without stopping at all in the gall bladder; that is not a diseased action; I have never known of a case of severe vomiting without emptying the gall bladder; gall is usually carried to the duodenum to aid digestion; if it should cease to flow for any length of time, it would be apt to cause colic; if the patient had taken her ordinary meals, I don't know how the intestines could have been emptied without vomiting; supposing she had taken her meals regularly before death (jejunum ordinarily empty), the process of digestion gradually propelled forward, gradually passes into the jejunum; absorption is performed in the jejunum; the food don't remain in that organ; it is usually empty; I think food passes more rapidly, as it goes through that, than through the illium; it remains longer in the duodenum than jejunum, taken in comparison with its length; it remains longer than in the illium; peristaltic motion is stronger in the jejunum than in the illium; the muscular fibres are stronger; that contributes to the emptiness of the jejunum; I cannot assign any other cause; that would not account for the empty state of the illium; I did not know I was called to testify to vomiting any more than to say that, in cases of violent vomiting, it could be heard some distance; the food from the illium might have gone into the colon; I heard the description of the colon; if there was no vomiting, all that was above the colon must have gone into the colon; if the supper was at 2 P. M., and was of ham and sausage, the stomach and duodenum might have been cleaned in 7 hours; I could not answer whether there would be any traces left; if the food had passed into the cæcum and colon in 7 hours, it would not be as well digested; it would be thin and watery; if it had passed from diarrhea and dysentery, there would as likely be purging as not; more likely; it would never get there, where there was no vomiting, without a diseased state of the bowels.

Adjourned till to-morrow (this) morning at nine o'clock.

TWELFTH DAY.

SATURDAY, June 25.

Barent P. Staats—Cross-examination resumed.—There is no mark of distinction between the jejunum and illium; were they laid together, you could not tell within probably two feet; there is a more distinct line between the duodenum and jejunum; there is no particular line to mark the distinction; it is shaded off gradually, as a picture; the gall bladder lies at the lower extremity of the liver; liver has a convex and concave surface; the gall bladder is partially attached to the concave surface; it is slightly attached to it when the convex and concave form begin; the gall is ejected from the bladder by compression; the gall bladder has a kind of peristaltic motion; the duct from the bladder unites with the pancreatic duct; I have said, in a case of vomiting I should expect the gall bladder to be empty; there is more difficulty in emptying a bladder by compression, when half full, than when full; when I find extreme contraction, congestion and corrugation of the stomach, and of inflammation of the mucus, emptiness of the urinary and gall bladders, I should not attribute it to any particular cause; *an irritant poison might be likely to produce such appearances*; in cases of irritant poison I should certainly expect to find some of them; none of them would be opposed to the hypothesis of poison; have no opinion as to what caused these appearances; if I had met with them in any natural disease I should have formed an opinion; when I have made post mortem examinations, these appearances would not be always present; it would depend upon who the man was, whether he would be better qualified to judge of the cause than myself; if he was honest and intelligent, and had experience in such cases, he might; some men gain nothing by experience; I *do not* mean to apply these remarks to Dr. Swinburne; I have used some of the narcotic irritants; have used arsenic, which I deem one; people differ in regard to arsenic, whether it is narcotic or not; I did yesterday say it was corrosive; I think it is a narcotic; I have used it in a form so as to make a marked constitutional effect; used it in Fowler's solutions; it is used as an alterative, and also to allay nervous irritation; hence I call it narcotic; have never examined a stomach for arsenic; use no other narcotic poison, so little is known of them, and they are so dangerous in their administration; I do not know what a "practical" chemist, precisely, means; some people call themselves so; I am not one, but have prepared most of my own medicines; never have experimented on aconite; never but once administered it, and then in a case of neuralgia; never saw a stomach in which it had been introduced; Beck tells of two or three cases of men who were poisoned with it; one had inflammation in the stomach, and the other had none; in this answer, as stated by Beck, I am compelled to rely upon dissection as the test; he also says that in

some cases there was slight inflammation of the coats of the stomach, and in others, none; he alleges inflammation was slight; he speaks; as I recollect, of no other feature than inflammation; I do not remember that he speaks of any other portion than the stomach; he describes the condition of the heart and blood vessels, and speaks of the duodenum; don't remember that he says anything about rigidity; I think Fleming speaks of other organs than the stomach, but I can't give you what he says about the stomach; I think he says subjects, generally, have congestion of the brain, and more or less inflammation of the stomach; do not recollect that either he or Beck speaks of contraction; Christison speaks of inflammation—I do not recollect as to contraction; think he says there is generally congestion of the brain; do not know that he speaks of small intestines; think Fleming says that generally there is purging; almost all writers agree that there is vomiting, but not “violent” vomiting, in cases of poison where the dose is strong enough to produce death; I would not feel myself competent to say a person died of aconite unless I found it in the stomach; I have seen it stated that the 50th part of a grain of aconitè would produce death; if I should find aconitine in a stomach, and the post mortem appearance should be the same as in this case, I would say death had been caused by aconitine; in a majority of the reported cases of death by poison, I think it is stated that spasms and convulsions are produced; don't remember a case after vomiting where death took place by syncope. (The case of the Count Beaucarme, for murdering his wife by nicotine, was mentioned; and on the Dr.'s being asked if the poison could not have been administered by the husband holding her down, he said—“he did not know; he did not believe much in this forcing of women against their will.”) I suppose the prisoner could have lifted this woman from her bed when she was vomiting; I think the power of the patient, to voluntarily move herself, could hardly have been had nearly up to the time of exhaustion; hardly any of the writers agree about aconite, or give its effects as the same; this case was stated to me a week or two before the trial by the district attorney; I did not answer “She died by poison, of course;” I did not say she vomited; taking the appearance of the body, as described by Swinburne and Salisbury, I can give no cause for her death; I cannot say that the appearances were sufficient to account for her death; nor can I say from them that she died of poison; I would attribute her death to disease of the brain, rather than of the stomach and bowels; I consider the condition of the brain, as described by Dr. Swinburne, as evidence of present disease; its appearance was evidence of past inflammation, but still left its impression on the brain; I never knew death to arise from mere adhesion of the arachnoid membrane to the brain; I have known of death from the brain, without congestion, adhesion or sup-puration; concussion is generally produced by a fall or a blow;

death from the brain may also ensue from atrophy and effusion in the brain; I cannot say that the brain in this case showed any symptoms of either of these six causes of death; as described by Drs. Swinburne and Salisbury, there were no symptoms other than opacity and adhesion; persons do not often die of other diseases, where, on a post mortem examination, you find extensive opacity and adhesion of these membranes; ordinarily I would not consider the appearance of this brain, the adhesion and opacity, any cause for death; if death ensued from the adhesion and opacity, and this alone, I should not expect to find the other organs in a normal state; in case of death from disease of the brain, I would not look for all the appearances of the stomach as described by the doctors in this case; I should expect to find a slight inflammation of the stomach; of the substance of the brain, in this case there was no disease; the arachnoid membrane has various offices; it goes in between the convolutions of the brain; it is a very sensitive membrane; it separates the dura from the pia mater; don't know whether it secretes or not; it is very important to life; most of the diseases of the brain are in the arachnoid membrane; this membrane lines the dura mater, and, covering the dura mater, follows the latter in all its courses; the dura mater lies next the skull; I do not know that the arachnoid membrane acts as a cushion to relieve the motion of the brain; it is elastic; I believe it is a secreting organ, on both surfaces; I have never seen or read of a disease of that organ which was sufficient to produce death without a large secretion of serum upon the brain; it is the general rule that it would not; never knew or read of a case where it produced sudden death, unless in epileptic fits; irritation of the brain sometimes produces epilepsy; there was no irritation of the brain here.

Direct examination resumed.—Have been in practice some 35 years; am occasionally finding anomalous cases of death; in case of Mr. Koon, who died suddenly, I was present at the post mortem examination; recollect slight inflammation on the inside of the skull, where he struck on the floor; I ascribed his death to the slight lesion discovered; he lived about two weeks; the appearance of the lesion in that case was not so evident as is described in the arachnoid membrane in this case; in the case of Koon, the lesion on the dura mater was not larger than a two shilling piece; there was a slight inflammation around it; there was no other indication I discovered; the arachnoid membrane is more delicate than the dura mater; I should ascribe the constant headache to the indication on the brain; there was a chronic inflammation; had I seen the indications on the head, before death, which have been revealed since, I should have believed that she would continue to be troubled with severe paroxysms of headache; Mr. Koon continued to attend to his business four or five days after his injury, he died in ten or twelve days; of that time he was I think confined to his bed four or five days; he complained

only of pain in the head; in some cases of sudden death you will find the stomach very much inflamed, without any other assignable cause; writers say this appearance, the redness and inflammation of the stomach, after death, increases; it depends on other causes, for instance whether the stomach is empty or not; the same appearances are sometimes presented in the small intestines, but in a less degree; the best authors describe the stomach, after having discharged its functions, as folding up; it contracts in length and breadth; the folding or the rugæ of the stomach does not alone indicate an unhealthy state; the stomach contracts as well as collapses; should not expect to find bile in a healthy stomach; I suppose that if the patient had vomited all the contents of the stomach and intestines, as described by Dr. Swinburne, some traces of it would have been left in its passage upwards; I cannot say, from the appearance of the fecal matter found and described by Dr. Salisbury, that there was a passage down, through the illium, into the colon; there probably was; excluding all other appearances than those on the arachnoid membrane, I should have attributed death to that alone; I do not think the condition of the womb, as described, any direct cause of death; it might have produced hysteria, and that, convulsions and fits, which, by affecting the brain, might have terminated in death; I have read of cases of hysteria which produced violent congestion and contraction of the stomach.

Chemical authors state that there are no tests by which the presence of vegetable alkaloids can be certainly discovered; aconitine is a vegetable alkaloid; morphine is a vegetable alkaloid, the most used, and this cannot be detected by chemical tests; I have prescribed a great deal in the country around; when they speak of "poison," they generally have reference to ratsbane; all medicines are poison, more or less; I have known muriatic acid used a great deal by country people for cleansing teeth; it is much diluted, but it makes a very bad wash; I do not believe that aconitine can be found in a stomach by any chemical test and analysis which, by human ingenuity, have yet been discovered; I speak, of course, from what I have read.

Cross-examined.—I will not swear there is such a thing as aconitine; I believe there is such a thing as aconitine; I believe it is a salt, and is the active principle of a plant; I do not know how it is procured, but know it is procured; I should think that the process by which it is procured would produce it, wherever it existed, under precisely the same circumstances; it would not under any other circumstances; can't say what effect the stomach would have upon the salt; if aconite had been thrown from a stomach, unless mixed with and affected by the juices, aconitine might be discovered; if the stomach was empty, it might also be discovered when thrown out; cannot say what authors say that you cannot reproduce it; I think Christison says so; I think he says there are no tests which indicate it; Christison may

say that there are tests which indicate it, but do not amount to a demonstration; I have never produced these salts; do not know the process, yet it is my opinion that they cannot be reproduced under any circumstances, when mixed with the contents of the stomach and bowels; it is my opinion from reading; if I saw the article reproduced, I would believe it; in all cases of chronic inflammation, you find an engorged state of the vessels in the affected part; some authors speak of idiopathic inflammation; I do not believe in it; there is no case of inflammation of the stomach without the presence of an irritant substance; some writers say that diseases of the brain will produce inflammation of the stomach; Gregory says so; the gastric juice is a secretion of the stomach; aids in digestion; it might corrode the coats of the stomach after death; after death, the juice cannot produce inflammation on the coats of the stomach; it makes it black; the stomach, when empty, contracts, as well as folds; some people's stomachs are twice as large as others; the gastric juice flows into a healthy stomach in an empty state; I think it would do so without a stimulant; I think that Bell states that the presence of the gastric juice in the stomach induces hunger; I think pure hysteria does sometimes produce death, without any other cause; I think the patient might die in a very few hours; it would be accompanied with crying, shouting, hallooing, laughing, &c., and convulsions, sometimes fainting; should not think a person would be likely to die of hysteria, unless exhausted from other causes; never read Leibig on the stomach; in cases of hysteria, patients would have all the symptoms of that disease; have never known fainting to be the first symptom; writers say that hysteria never attacks men, but if women were to write books, they would say differently; I was present at the death of Koon; I differed with every other physician, in my opinion of the cause of death; I assisted in dissection; Dr. March, Dr. Wing, Dr. Armsby, Dr. Hun, and others were there; and, as to the cause of death, I differed with all of them; in the case of Koon, I attributed death to blows and injuries received, and they said it was from the nervous shock; he died delirious; it was from concussion of the brain.

Here the court adjourned to Monday morning, at ten o'clock.

THIRTEENTH DAY.

MONDAY, June 27.

At the opening of the court, this morning, the room was crowded with spectators. The interest, excited by the difference of opinion existing between the medical and chemical profession, is accompanied with no little excitement; and among those present we noticed several well known to the medical and scientific world. The ladies, too, still exhibit their interest in the progress of the trial, a large number being present.

Dr. Lawrence Reid, for defence.—Reside in New-York; am a practical chemist; been engaged in it professionally 25 years;

commenced my education in it in Edinburgh, Scotland, with Dr. Reid and Professor Hope; was four years their paid assistant; came to this country in 1834; was seven years Professor of Chemistry in the College of Pharmacy, New-York; was also for seven years Lecturer on Medical Chemistry and Analytical Chemist in the City Hospital, New-York; have devoted my principal attention to chemistry, since a boy; I am Professor of Chemistry in the Penn Medical College, in Pennsylvania, and pursue the business of analytical chemistry in New-York; cannot state how often I have been called in capital cases as a witness on the part of the state; have had most of the criminal cases in New-York for the last ten years; also have been called frequently to the country; was at Rochester in the case of Dr. Hardenburgh; heard the direct examination of Dr. Salisbury; from the three acid tests Dr. Salisbury first applied, I should place no reliance upon them to discover aconitine, because there are numerous other organic substances which produce the same color by the action of the acid, such as sugar and gelatines; I have not tried those experiments for the purpose of testing them since I heard him; I have tried experiments on aconitine with sulphuric, nitric, and hydrochloric acids; I took the 32d part of a grain, dissolved it in a few drops of alcohol; I mixed in about 30 drops of water, added 2 or 3 drops of sulphuric acid, then boiled without producing any coloring result; then increased the quantity of aconitine to the 16th of a grain without producing coloring result; from this I should infer that small portions of aconitine could not be discovered; I should not, in a case like that stated by Dr. Salisbury, place any reliance on it whatever; I have examined Dr. Salisbury's two processes of analysis, have heard and read them; I did not hear him state the result; my opinion is, that in neither of those processes of Dr. Salisbury's I could have *been positive that I had discovered aconitine*; as to the detection in the taste, as described by him, I consider the taste different to different persons, and I would not rely upon my taste in discovering it; if aconitine had been present, sufficient to have produced the result, by means of the tests and analysis, as given by Dr. Salisbury, the whole result would have been sufficient to have killed a dozen cats; if there had been enough aconitine present to have produced the colors, as mentioned, I think there must have been half a grain present at least; if there was not enough aconitine present to kill a cat, I do not think he could have got it; as I have never tried to separate aconitine when mixed with the contents of the human stomach, I cannot express my own opinion as to the difficulty of separating it; I should think it would be very difficult to separate it when absorbed in the system; I know of no process by which it can be done; but as I have never tried it, I cannot say; following out the second process of Dr. Salisbury, and getting the basis upon which he acted, I suppose the precipitate might have been phosphate of

lime, or some resinous body; the taste of that precipitate procured from the contents of the stomach, if it was phosphate of lime, might be no taste at all; and if it was a resinous body, it might have had the taste peculiar to whatever resinous body it was; after having mixed the two residuums produced together, I should not like to have drawn any inference from the taste in a court of justice, having procured a liquid in one case and precipitate in another; I do not think he could have been positive he had found aconitine in either; I think the distillation by potassa threw an uncertainty upon the whole result, and therefore I prefer not to express an opinion in regard to it; I think his not having examined the stomach and bowels, to see whether they were acid or alkalis, threw uncertainty over all the proceedings, especially in the search for acids; my mode for testing for aconite would have been to have cut the parts in small pieces, and digested them in pure concentrated alcohol, cold; should use it cold, because if I employed heat I should throw into the analysis a powerful chemical force, which, along with the alcohol, might produce new changes, and give rise to production of matter which might mislead me; having thus digested, should then filter, and taste it; if I found this acrid, tingling taste and bitterness, I should then consider that probably aconite was present; it would be a strong probability; if I could not distinguish the taste, after proceeding thus far, I should make up a fictitious mixture, of near the same materials as possible (mucus, fat meat, matters resembling the stomach), and mix it with alcohol and a solution of aconite, and proceed as I did in the first case; if in the one case, say from an ounce of the solution of tincture of aconite, I procured a reasonable tingling sensation and acidity, and in the other case I did not, I should reasonably infer that aconite was not present, and would not pursue the investigation further; I have taken a portion of cubebs and a portion of pickled tomatoes, a small piece of fat, and a portion of egg beat up, which I subjected to the action of alcohol, filtered it, and obtained a solution which did give a hot taste and a tingling sensation and numbness; in one case I used potassa, in the other did not; there was a resemblance in the taste to aconitine; can't positively say I obtained that which answered to the taste of aconitine.

Q. With what confidence would you rely upon your single taste in detecting the presence of aconitine?

A. Except it was present in very considerable quantities, so as to produce a terrible taste, I should not rely upon it at all; have never killed cats or dogs; I heard Dr. Salisbury's account of his killing a cat; if he had subjected the viscera of the cat, after he had killed her by aconite, to his tests, to see if he could reproduce aconitine, I think it would have been very useful; if, after killing the cat, he had subjected the viscera to his acid tests, it would not have thrown any light upon the subject to me, for the reason that I have no faith in those tests.

I have not examined a great many subjects after death ; have seen them examined ; I have very little confidence in the post mortem appearances of a subject, as furnishing any cause for death ; from what I have heard and read, I should think it extremely difficult to separate aconitine from the root, and I should think the difficulty greatly increased after the aconitine had been mixed with the contents of the human stomach ; from a pound of the root of aconite, by an experiment seven or eight years ago, I obtained only about a grain of aconitine ; and I presume others are in the same predicament ; it sells very high ; in an ounce of the tincture of aconite, as prepared by the U. S. Pharmacopœia, I should think there might be 1-16th part of a grain of aconitine ; in an ounce of the tincture, I imagine, to extract it by a chemical process, you would not get over half of it, that is, 1-32d.

Cross-examined.—Was born in Edingurgh, Scotland ; believe I am 41 or 42 years of age ; can't tell ; it is some time since I looked at the certificate ; received my education in Edinburgh ; I commenced chemistry when about seventeen years of age ; was employed as an assistant in teaching practical chemistry in the University of Edinburgh ; had the general superintendence of the laboratory ; I made there the whole routine of experiments generally performed in elucidating the science ; did make experiments with the alkaloids there—morphine, strychnine, quinine ; morphine and strychnine are not salts, in themselves ; become so when combined with other substances ; morphine becomes so when combined with sulphuric and hydrochloric acids ; of my own knowledge I cannot say that these acids would make all the alkaloids salt, but from their character I think they would ; none of the alkaloids, that I can remember, are tasteless ; the College of Pharmacy, New-York, is an institution chartered by the state, having professors, &c. ; I was Professor of Chemistry there ; it has a laboratory, but I had my own ; was there seven years ; I wrote nothing but a formula for making blue pills ; in making my experiments I followed my brother's formula, "Reid's Elements of Practical Chemistry ;" have seen copies in this country, besides those in my possession ; my students buy it ; do not know that there is a copy in this city ; it treats of the vegetable alkaloids, not all of them ; it treats of morphia, strichnia, veratria, quinine, cinchonine ; I recollect none others ; I believe it does contain the method of extracting these ; can't tell at the present time what process the book gives for extracting strychnine. (Witness here detailed the processes of extracting strychnine and quinine.)

Q. Were you not dismissed from the College of Pharmacy, New-York, for incompetency ?

A. No, sir, I was not dismissed for incompetency ; I have no objection to giving the reason why I left the college, but would prefer not to ; it is none of the business of the court's or yours.

Am not a regular physician ; have studied medicine ; am not a surgeon ; have studied anatomy and physiology in Edinburgh ; have made no dissections since I came to this country ; what little knowledge I have acquired in surgery I obtained before I was seventeen ; with these experiences I would venture an opinion as to post mortem appearances ; I have perhaps seen a great number of dissections ; I have never given post mortem appearances much attention ; I have been often called upon as a chemist to testify ; have been called to see the effect of poison on the stomach ; from my study and experience I can say there is no reliance to be placed on post mortem examinations ; have frequently seen post mortem examinations where death was caused by poison ; have seen them by arsenic, laudanum and alcohol ; have seen five or six cases where death was produced by arsenic ; have found difficulty, in such cases, in finding cause of death ; I can say that all cases did not put on the same appearances, but I don't think I could state two cases wherein they differ ; they generally agree in point of effusion of blood in the stomach ; can't state in what else they agree ; in each case I detected poison in the stomach and contents ; I was called as a witness in both of these cases ; believe I testified to the fact of obtaining the arsenic in each case ; in Hardenburgh's trial, I was subpoenaed to Rochester on part of the state ; I do not remember that I gave an opinion in that case or not ; I did not make an analysis in that case ; the poison in that case was strychnine.

I was employed by Jacob Hendrickson, the uncle of prisoner, as a witness in this case ; I was called upon, on Tuesday or Wednesday of week before last ; have been up here and back several times ; they are not to pay me \$400 for my coming on to the stand ; I do not consider they are to give me any pay ; I shall make my account out against the county ; Mr. Hendrickson merely asked me what I received in such cases, and I told him what I usually charged the county ; and he said there would be no trouble about that ; he handed me \$25 for my expenses ; I requested him to take it back again ; I expect to get it from the county ; I believe there is such a thing as aconitine, because I have made a small portion of it, and purchased it also from reliable persons ; it is very scarce ; I do not believe it is kept generally by druggists ; in procuring it 8 years ago, as near as I can recollect, I followed the process laid down by Wood and Bache ; I believe the process by which I obtained it was precisely the same as that adopted by Dr. Salisbury, except I did not use animal charcoal ; and I procured a grain from a pound of the root, and believed it was aconitine from its warm and bitter taste ; I believe the root was in good condition to obtain it ; I got it from Adamson's ; it was dry ; I knew from the taste of the root that it was aconite ; cannot tell, of my own knowledge, whether the root is stronger in the flowering than at a later season ; I took about one pound, and cut it up, digested it in a sand bath, with the alcohol ; this was

done some time, and I believe repeated two or three times; poured off, and added more alcohol, and did this two or three times; this was mixed with alcohol, and evaporated to a syrup consistency; some fat matter, I believe, arose, and this was skimmed, and set away; I then added dilute sulphuric acid, slightly in excess; then boiled with animal charcoal, filtered, and to the fluid added ammonia; waited some time, to let this precipitate form; redissolved this precipitate with dilute sulphuric acid; boiled with animal charcoal, filtered, and to the solution added ammonia; the precipitate I washed with a little water; I believe I obtained aconitine, because I dissolved a little of it in alcohol, and found it produced the tingling, numb, warm taste of aconite; *I have no doubt I obtained aconitine*, be it more or less pure; *I had no other evidence of this fact, except in tasting, together with its solubility in alcohol*; I did not pay any attention to see whether it was crystalline or not; did not examine it with a glass; did not repeat the experiment more than once; that is the only attempt I ever made to obtain the active principle of aconite by analysis, with the exception of my experiments since the examination of Dr. Salisbury; this is the only experiment I have made; many substances are solvent in alcohol; solubility is a peculiarity which is common to many vegetable salts; *I depended on my taste alone*, and not its solubility, in forming my judgment that it was aconitine; in my recent experiments, *from the three-thousandth part of a grain, I have detected the taste*; this three-thousandth part of a grain I dissolved in a few drops of alcohol and water, and from it got the taste of aconitine; with this explanation, I have given all the experiments I have made; from the taste of the article, given me as aconitine by Mr. Adamson, I believed it to be aconitine; I took one-eighth of a grain, and divided it into four parts, and thus obtained the thirty-second part of a grain, which was dissolved in alcohol, with water added; these are all the experiments I have made; from my own knowledge, I do not know that aconitine is volatile; I think not; I believe it can be dissipated by heat in a gaseous form; I know, in my experiments, that my acids were pure.

Adjourned till three o'clock P. M.

AFTERNOON SESSION.

Dr. Lawrence Reid—Cross-examination continued.—Do not remember what time Wood and Bache say it would take the poisonous principle of the plant to mature; macerating the root took me two days; the tincture, as prepared for the shops, takes fourteen days; the reason I applied the alcohol three or four times was in order to secure all of the active principle; think a very small quantity of alcohol would hold in solution the amount of aconitine got from a pound of the root, but the bulk of the roots being large, it would require a proportionate quantity to cover them; have not lately tested the acids used in experiments; some of the sugars, by the application of sulphuric acid, will color; by the

application of sulphuric acid, sugar will color from a light brown to a black; gelatine boiled in sulphuric acid gives a color; it gives the same shades as above; both sugar and gelatine give different shades of color, by application of hydrochloric acid, from a straw color to black; think with nitric acid sugar is converted into oxalic acid, and of a light straw color; I believe it would have the same effect upon the most of vegetable substances; by gelatine I mean such as glue, &c.; I have frequently had occasion to mix sugar with sulphuric and nitric acid, and have observed the effect; subjecting them to heat and adding water is included in producing the effect; the sugar loses its sweet taste, and a taste like burnt sugar takes its place; I cannot mention what authors mention these results; as a general thing, all organic matter turns black by these tests; I do not know of any organic body which, treated this way, would not produce similar appearances; the colors, described by Dr. Salisbury as having been given by sulphuric, nitric and muriatic acids, are given *by so many organic bodies, that I would not place any reliance upon them; have never read of these colors being produced by aconite in any way, in connection with these acids; I do not believe I have ever read of any chemical tests prescribed for detecting aconite; can't remember that I have ever read any author who prescribes the mode of indicating the presence of aconite by tests;* I do not know of any chemical tests which would, with certainty, detect the presence of aconite; my memory is not good; it is difficult to fix it; to detect the presence of aconite, I should divide the substance into minute portions and subject it to the action of alcohol; I should then pour out the solution, or filter it if necessary; I should then taste it, and if it should give correspondent indications with tincture of aconite, I should suspect the presence of aconite; I should expect to have some symptoms of numbness, acidity and hotness (the Doctor here reiterated the process described in his direct examination); if I procured a substance resembling aconite, and having its characteristic taste, I should not call it phosphate of lime; phosphate of lime, to a certain extent, is soluble in alcohol; I did not intend to say that Dr. Salisbury had procured phosphate of lime from the stomach and bowels; I intended to say that it might have been produced from the animal charcoal used; that phosphate of lime would have no effect upon the tongue; ten times that quantity would have no effect, to my knowledge; the object of subjecting the material to the action of hydrochloric acid, is to wash out the phosphate of lime; still, there is, in my opinion, great difficulty in thoroughly purifying the animal charcoal of it, and some may remain; I do not know how much tincture of aconite would produce death; think an ounce would be dangerous; have read no books to prepare me for this examination; an ounce contains 480 drops.

Q. If 50 drops would produce death, how much aconite would you procure in it?

A. About one-ninth of a sixteenth of a grain.

The taste would be perceptible; heat produces so many changes that I would avoid it, lest it might mislead me; a less degree of heat than 212° would produce a chemical change in the case of sugar and sulphuric acid; I cannot say that I would expect to destroy the alkaloid of aconite in subjecting it to heat; it would not, so far as I know, be thrown off in process of distillation; in the process of extracting the aconite from the root, I did apply heat; there are substances resembling resinous matter in the human system; I will not swear that there is resinous matter in it; when I spoke of it, I had reference to the food in the stomach; I heard the description of the stomach and intestines; I cannot say whether resinous matter is indigestible; there appeared to be a small portion of ammonia in my distillation of cubebs and potassa; ammonia, in a concentrated state, has an acrid taste; cubebs have also; cubebs and aconite, if very much diluted, are much alike; I would not say one was cubebs and the other aconite; I mean to say that I should not like to say that one was cubebs and the other aconite; if the aconitine was strong enough to enable me to feel its pungency, I should have no difficulty in distinguishing them; the stronger I made the taste the easier would be the distinction; I know no other effect, than that caused by taste, produced upon the human system by aconite; I think the ingredient in which Dr. Salisbury administered the substance to the cat invalidated the test; I understand that he had it in a solution of water and alcohol, which he poured upon the meat; I never administered alcohol to a dog or cat; I saw alcohol administered to a cat in Scotland; it was put on a piece of meat and forced down the throat; think a one-half teaspoonful of alcohol would produce quite an effect upon a cat; never saw aconite administered in any form to an animal; could not say, from what I know myself, what effect aconite would have; twenty years ago have read of it producing paralysis; cannot tell in what book; must have read it in the Dispensatory; I think there is a resemblance between the effects of alcohol and aconite upon animals; alcohol is a stimulant; I do not know, but presume aconite is a sedative; think both alcohol and aconite produce excitement and stupor; both produce vomiting, and a disposition to lie down, as in the case of the cats; I think aconite must produce excitement upon the nerves of the stomach, if it causes vomiting; cubebs and tomatoes are not poisonous to the system; none of the materials used in my experiment with seeds, if introduced into the system, would be injurious; I have never made post mortem examinations; I am not able to describe the stomach and intestines in any case on post mortem examination; have performed experiments upon stomachs in cases of poisons; there was an effusion of blood and some spots; they were corrosive poisons.

Direct examination resumed.—I satisfied myself, in my experiment, of procuring aconitine from the root; that I had procured

the whole principle, because the residuum was tasteless; I used hot alcohol, because I believed it the quickest way to procure the principle; I am not able to say what the liquid Dr. Salisbury procured was; I think, after the process he had taken *to procure* aconitine, if he had tasted it, he might or might not have discovered it; my view of it is, that with the substances and by the process he followed, he might have manufactured another poison.

Cross-examination resumed.—Potassa is a fixed body; at a white heat it might be volatilized; there may be organic matter that potassa would act upon by which it would be distilled over; never get a white heat over a water bath; cold tar, compounds from bark, distilled with potassa, give rise to an alkaloid; potassa is used to separate the volatile alkaloids; take hair, stomach, or blood, and heat it with potassa, and you would get prussic acid; prussic acid is made in this way, by mixing, heating, filtering and cooling; it is composed of carbon, hydrogen and nitrogen; I have made it in this way; it could be produced in large quantities, and this is the process; it has a slight bitter taste; a strong, powerful odor of ~~burnt~~ almonds; I believe the odor is the principal means of detecting it; I have not said, nor do I believe, that prussic acid was found by the process that Dr. Salisbury pursued; I cannot say that no poison was formed; I think there is a possibility that some organic poison, besides prussic acid, might have been produced by that process; I don't know, nor can I say, what poisons; I can conjecture that a great many could be thus produced; not knowing the original substance which we have to act upon, I cannot tell what poison we would be apt to get; do not know of any poison except prussic acid that could be produced.

Dr. Ebenezer Emmons, for defence.—Resides in Albany; am a practical chemist; was employed many years ago in lecturing on chemistry at Williams College; lectured four or five years; was engaged also in the practice of medicine; came here in 1837, and went into the employ of the state, having in charge the State Laboratory; since I have been subpoenaed on this case, I have been called upon by Drs. Swinburne and Salisbury; there was no other subject of conversation but the matter of what I could testify; I was engaged in the State Laboratory about three years; I was making an analysis of soils and different kinds of grain; Dr. Salisbury was an assistant of mine at the time; it is regarded as a very difficult part of chemistry to detect with any degree of certainty, by the present tests, any of the vegetable alkaloids; there are tests laid down for many of these alkaloids, but our best authors say it is not safe to rely upon them.

Q. *Have you read the testimony of Dr. Salisbury?*

A. *I have.*

Q. *Did you read it, as published in the Express?*

A. *I did.*

Q. From the tests mentioned by Dr. Salisbury, as therein published, with what degree of certainty could you infer the presence of aconitine?

(The question was objected to, inasmuch as counsel thought that the *Express* contained a full and accurate report of the testimony of Dr. Salisbury, *except* a description of the tests referred to; whereupon Mr. Wheaton read from the *Express* a detailed account of these tests, embodied in the testimony as delivered by Dr. Salisbury.)

A. I suppose from these tests, as mentioned by the Doctor, you cannot safely infer the presence of aconitine, because the behaviour of sulphuric acid with other substances resembles that described, and you would be unable to distinguish the results; I do not speak of all the acids, I speak more particularly of sulphuric acid.

The common effect of sulphuric acid, with the majority of organic bodies, gives them a brownish or reddish brown tinge under certain circumstances; the circumstances would depend upon the strength of the acid, and whether it was hot or cold; in order to produce the deep port wine color, I would apply it cold, but it would require a longer time; this change of color is caused by carbonization; of my own knowledge I cannot speak as to the effect, on similar substances, the boiling with hydrochloric acid would have; nitric acid is different in effect; it generally whitens organic bodies; I read Dr. Salisbury's testimony where he subjected the viscera of deceased to his two processes of analysis; from these processes, the result he arrived at, and the means he employed to test the result, my opinion is that the first process is the most objectionable; I have not yet been able to make up my mind that he could arrive at any result by it; perhaps I do not understand whether he set aside the part he distilled over, or what remained in the still; if he set aside the part he distilled over, I should very much doubt that he had obtained aconitine by distillation, inasmuch as it is regarded as a fixed body, so far that it would not be distilled over; the heat he subjected it to would not bring it over without decomposition; I have no experience upon the subject of obtaining aconitine; my opinion is, as derived from modern scientific authors, that it is very difficult to get aconitine from the crude material; don't know that authors say it is more difficult than to procure other principal substances; Raspail says that some of the alkaloids, when introduced into the stomach, may become changed by being mixed with the contents, and it would be difficult to detect them; they are more liable to change than other organic bodies, and that the organic bodies are not so stable as the inorganic bodies; those derived from the vegetable and animal kingdoms are organic bodies, while those derived from the ~~medical~~ *mineral* kingdom are inorganic bodies; I procured nearly a quarter of an ounce of aconite, and have attempted to produce a precipitate, but could not produce it; could not perceive anything through a microscope;

there are no statements in books, or no data by which you can tell, how much aconitine can be produced from an ounce of the tincture; there are as to strychnine, and taking this as analogous, I think there would be less than thirty-hundredths of a grain of aconitine in one ounce of the tincture, though they are not analogous.

Q. Have you read the testimony of Dr. Swinburne, in the *Express*?

A. I have so read the testimony of Dr. Swinburne; if this woman had vomited, as described by Dr. Swinburne, I should think half of the aconite would have been vomited up.

Adjourned till to-morrow (this) morning, at 9 o'clock.

FOURTEENTH DAY.

TUESDAY, June 28.

Dr. Ebenezer Emmons, direct examination continued.—Assuming that one grain of aconitine is extracted from one pound of root (although it is not expected that the whole of the active principle is taken out of the root), I did make a calculation as to how much would be contained in an ounce of tincture, as prepared by Dr. Burroughs; it would be very small; I think it would be something like the 700th part of a grain; as I understand it, there were two ounces of root to sixteen of alcohol; it seems to me, as small a quantity as that could not be precipitated; very small quantities are from mineral poisons precipitated; all alkaloids are light, and are more likely to be held in suspension in a fluid than metallic or heavier poisons; I tried the experiment of testing a very small quantity of aconitine; I supposed it to be a fiftieth part of a grain; I tested with sulphuric acid; I procured the aconitine for the purpose of ascertaining if I could procure colors with a small quantity of it, on dissolving it in water, and acidulating it with sulphuric acid, and warming it; I perceived no change of color; I added some of Mr. Burroughs' tincture; it did not produce any change in the depth of the color; the tincture is quite acid; on passing it through animal charcoal the depth of color was diminished, but the coloring matter was not entirely removed; but in mixing with sulphuric acid, I did not see that it changed its color; the effect of the taste on passing it through animal charcoal was impaired, so that it led me to suppose that it was changed; I drank half a teaspoonful; it had a peculiar sensation, a sense of constriction, a feeling came on like choking, secretion of saliva, and warmth in the stomach; I could not determine other sensations; I fancied a little weakness about the hips; this I took on a full stomach; it produced as much effect after passing through charcoal as before; the taste was not bitter.

I tried aconitine for the purpose of seeing if it was an irritant and astringent; I got some lint (moistened with aconite), placed it under my lip, against the gums, and kept it there a quarter of

an hour, to see whether it would produce an activity of the blood vessels; after keeping it there fifteen minutes, I asked my son to look at the lip and see its condition; he turned the lip down; it appeared red, and the blood vessels could be seen distinctly, while all around the spot the appearance was natural; this experiment would not show aconitine to be an astringent, but rather as creating a swelling; in order to taste anything, it should be soluble; aconitine is not as soluble in water as in alcohol; I have not tasted it as a solid; in resorting to an analysis, it is very desirable, first, to ascertain whether the substance is acid or alkaline; I am not sufficiently acquainted with Dr. Salisbury's first process, the materials used, and the amount of heat applied, by which he procured the liquid, to be able to say what that liquid he procured was; it would depend a great deal on the basis; it requires five or six hours for a stomach, in a healthy condition, to digest and pass out a meal; I suppose the passage into the duodenum, jejunum, &c., would be gradual, and as the food is digested; the food would remain about an hour longer in the duodenum than in the stomach; it passes more rapidly through the jejunum; the term signifies empty.

Q. What would be your opinion as to whether or not it would be very unusual or remarkable to find the small intestines empty, eighteen hours after taking an ordinary meal?

A. When we speak of the emptiness of the small intestines, we mean that the main part of their contents has been disposed of; chyme is a healthy secretion of the stomach; there may be some remaining; chyle is a healthy product of the duodenum; of the usual effect (of a person dying suddenly) on the alimentary canal, I answer as follows: at the moment of expiring, the relaxations which take place, and the peculiar movements of the intestines, tend to a discharge of their contents; the lower intestines are frequently discharged in that way; among scientific men there always has been some doubts about the ability of chemists, by the tests known to them, to distinguish, with certainty, the vegetable alkaloids; there are doubts, to be sure, but when you come to put a whole series of tests and experiments together, chemists are able to distinguish the vegetable alkaloids from one another; the difficulty is here: up to one stage of the science, chemists may suppose that they have a good test for a particular substance, when, afterwards, they learn that the same test has been successfully applied to another.

Cross-examined.—Dr. Salisbury was with me about three years; he was very industrious, and his results in analytical chemistry were very good; I had, when I was in the employ of the state, the exclusive charge, as I supposed, of the laboratory; Dr. Salisbury was employed by me as organic chemist; he was engaged in the same analysis as I was, of rye, oats, corn, wheat, &c.; we were making the analysis of the grains with a view to the application of specific manures; when an animal dies suddenly, by

violence, *in articulo mortis*, there is a relaxation in the intestinal canal, by which the contents are discharged; it is a very ordinary occurrence; there is a general relaxation of all the muscular system; the posture may have some effect; I do not mean to say that in the moment of death the whole intestinal canal forces its contents forward; it may go on after the blood ceases to flow. On cutting an animal open after death we find muscular movements going on; the contents of the intestines are voided; it depends some on the condition of the bowels; have not examined any subjects who died by hanging; have read of them; in hanging, the contents of the intestines sometimes empty themselves; my impression is that this does not occur in cases of drowning; I think it does not take place in rupture of the heart, nor in apoplexy; when I spoke of it, I had in view the destruction of animals suddenly, such as knocking them on the head, and by blood letting; in hanging, the death may be produced by asphyxia or apoplexy, and you might get different symptoms; I think it would not be a very common occurrence to find the small intestines perfectly empty; in all the cases I have ever heard or read of, I never found the condition of emptiness as described in this case; I have never seen so empty a condition of the intestinal canal as described in the testimony; I have my doubts about the theory of vomiting, yet I do not know but that it would be the natural conclusion to say the contents were vomited; *I cannot reconcile vomiting with all the facts of the case*; if she had not taken food since Saturday, I should expect to have found the upper part of the intestinal canal empty; the emptiness of the gall bladder and urinary bladder do bear upon the hypothesis of vomiting; the fact of vomiting, it appears to me, depends upon the condition of the stomach and intestinal canal; *I do not think you can infer vomiting by the appearance of the intestinal canal*; by intestinal canal, I include the stomach and all below, including every appearance, as described by witnesses; I do not think we would be warranted in saying to a certainty that she vomited; I don't embrace the contracted condition of the stomach; those appearances accompany violent vomiting; the irritation of the intestines, the emptiness of the gall and urinary bladders, and the congested state of the stomach, indicate vomiting; the phenomena of the condition of the stomach and intestines might be explained without supposing that an irritant had been applied; there are phenomena that closely resemble the presence of an irritant.

Q. Did the appearance of this stomach and bowels indicate the presence of an irritant or not?

A. I do not think I could answer very well, inasmuch as I have not as clear an apprehension of the subject, as described by Dr. Swinburne, as I might have if I had seen it myself, although I might not understand it as well as he did; where there is an intense redness and high vascular action, I should expect the presence of an irritant; whereas, if *there was a uniform redness*

merely, I could *account* for it on other grounds than that an irritant had been applied. Viscid mucus we often find in the stomach; mucus tinged with blood would indicate the presence of an irritant. It follows, that where this viscid mucus is tinged with blood, it has exuded from the blood vessels in the coats of the stomach; viscid mucus, found adhering to the stomach, is one of the evidences of inflammation; you always find mucus present in a healthy stomach, less in quantity than in an inflamed; you may not find any when there is inflammation; the action is too high to produce it; the *follicles*, i. e., the glands, may be closed by the inflammation; where the inflammation is very high you would not find the mucus. In case of death by a narcotic irritant poison, the appearances on post mortem are various; you have congestion frequently, and you may not have it; you might not find any distinct appearances; we might not find any appearances in the whole of the intestinal canal. In cases where persons die by asphyxia, should expect to find engorgement of the heart and lungs, and the large vessels connected with them; if suddenly, without asphyxia, should expect engorgement of the brain and the cavities of the heart; if the action of the poison is prolonged, and death does not take place immediately, then the stomach and intestinal canal would be involved, and there would be vomiting.

I yield to the hypothesis, that when the action of the poison is sudden, producing paralysis or syncope, it is through its action upon the nervous system; where it is prolonged, should expect to see its action on the stomach and bowels; I am acquainted with aconite no further than by its effects on myself; I have never seen a case in man or animal where it produced death; I think it has a specific effect, independent of its irritant qualities; by that, I mean a particular effect upon certain organs; I think the effect paralytic; the posterior extremities become weak and insensible to the action of external irritants; it produces insensibility to pain; if I understand its effect, it would not produce a suspension of the mental faculties, but the nerves of motion are affected; staggering, irregularity of motion is caused; have my doubts as to rigidity being a common attendant of this poison; what knowledge of its effect I have is derived from books; I do not recollect that rigidity, immediately preceding or after death, is laid down as a prominent symptom; I do not believe that it shrivels animal or vegetable matter; I think it is not so laid down; they wilt, but not shrivel; I don't recollect that Fleming uses the word shrivel; they can shrivel after they are wilted down; I do not know that it shrivels all plants and living tissues; Fleming speaks of one case of a dog, where it contracted the stomach, but I do not think he does in all; there are other poisons which, introduced into the circulation, will wilt down a plant—morphine, opium, and many of that class; I should think aconitine more marked and speedy than any of the others; I

think aconitine an irritant; I do not know that congestion of the stomach and intestinal canal can never be produced without the presence of an irritant; I have never seen a case of the kind; all the best authors do not lay it down, that it never takes place without an irritant; in cases where persons are exposed to cold, those organs become inflamed; in cases of burns also, and in cases of severe dislocations, where there has been a great irritation of the arterial system, those organs have been found inflamed, in an active vascular state; in these cases, the phenomena are almost identical with those produced by an active irritant; congestion and inflammation differ in degrees; you can distinguish them; in irritants you would have this redness in patches and blotches, whereas in inflammation you have an uniform redness; irritation and inflammation are not the same; the words are frequently used as synonymous. Inflammation terminates in different ways—in *resolution*, that is, ceases to be; relieves itself by abundant secretion, or by formation of puss; and may terminate in gangrene. These diseases may exist without vomiting. Where, before it has reached the condition of gangrene, we have inflammation of the stomach and small intestines, and death ensues, it could not take place without vomiting; death would ensue in consequence of the condition of the organs and of vomiting. Where death ensues by the introduction of an irritant into the stomach, I should certainly expect vomiting. I know there is such a thing as strychnine; I have seen it. There is such a thing as aconitine; I have never gone through with the process of procuring it; I would give the process stated in ~~Kane's~~ *Chemistry*: I should make a dilute solution of sulphuric acid, and macerate the pulverized root in that; the object would be to take up the active principle, which is soluble in this acid; I should filter, after maceration and solution, and neutralize by carbonate of soda; should then make use of cold alcohol to take up this active matter, filter, evaporate, and add carbonate of soda in excess, for the purpose of precipitating the aconitine; then it should be filtered. I have omitted all the steps for removing the coloring matter; these are the principal steps by which aconitine could be obtained. I don't know the best process; there are different ways to procure it; sulphate of soda is soluble in alcohol. I have attempted to separate aconitine from the tincture. My object was merely to see if I could form a precipitate from such a small quantity; got no precipitate, but had a liquid; I let mine stand several hours; the whole process was performed during yesterday; the whole process occupied less than a day. To do this *from the tincture* should not take three or four days; don't know but it would require much longer than one day to get the aconitine; I think you ought to get the aconitine from the tincture in one day. I should ascertain *by tasting of it* what my precipitate was, and should then determine if it was an alkaloid; should determine this by its changing vegetable colors; for

instance, if it was effected in color by acids, this would merely tell if it were an alkali or not; that it was aconitine would depend on other tests; I think *the taste is the best*; if on being administered to an animal it would produce the specific effects, I should consider it confirmatory; I know of no other way to judge of the presence of aconitine; I have never gone through with Dr. Salisbury's process; I did not pursue the whole process he did; I had no occasion to separate it from other substances, or from the root; if I were required to select aconitine, I should depend upon my taste; I think there is another article which resembles it very much; it is veratrine; but this produces violent sneezing; it is also a little more pungent than aconitine; it is one of the deadly poisons, not so much so as aconitine; again, the effect of veratrine on the tongue commences immediately, that of aconitine does not.

Have seen no dissections, made no experiments, or been present at a post mortem examination in case of death by aconitine; all my knowledge in regard to such matters is made up of the experiences of others; have attended many post mortem examinations; none in cases of poison; I think I have attended post mortems in cases of sudden death; I can recall but one case where on a post mortem examination I had any doubt of the cause of death; facts gained on post mortem examinations are the best evidence we have as to the cause of death; I have my doubts whether post mortem appearances are the most reliable information we can get; facts and phenomena thus obtained are the best indications as to causes; have had no conversation with Messrs. Wheaton and Hadley outside of the court room; have no other interest in this case than to understand it; I did not tell Dr. Swinburne that the only way to account for the appearance of the subject, as described by him to me, was that she had vomited; my opinion was given to him a fortnight ago; *I did say on the Dr. reading to me his notes taken on post mortem examination, that I could not account for the appearances except by her vomiting*; I also said that I always felt a fear and hesitancy in relying upon other persons' experience, I had been so often deceived, &c.; I do not recollect telling the Doctor, on that occasion, that a medical man could safely swear that she vomited; I don't know that there is any difference between his statement to me and his sworn statement upon this trial; he consulted with me upon it, and asked my opinion; this conversation was before I was subpoenaed; one of the prisoner's friends called on me on Saturday night and told me I should be paid, but I told him I did not expect reward; I had no conversation with prisoner's counsel or his friends in regard to this case.

Direct examination resumed.—I should have examined the precipitate, as procured by Dr. Salisbury, with a microscope, to have ascertained the form of the crystals; they are said to be granular. Dr. Swinburne has had a conversation with me three times on the

subject; I was subpoenaed without knowing that prisoner's counsel or friends had any opportunity of knowing my opinions at all; I take no more interest in this case than I would in any other where a human life is concerned; I went to Burroughs to see if his tincture was inert or not; was subpoenaed Thursday; got in town Wednesday evening; Dr. Salisbury called, in company with Dr. Swinburne, the morning after I was subpoenaed; I wanted some conversation with Dr. Salisbury; did not send for him. Persons sometimes die of apoplexy, when, on a post mortem examination, no cause can be found. I did read the condition of the womb; diseases of these organs are fertile causes of hysteria; if hysteria terminates in death, it probably changes to apoplexy. The patient having complained of a pain in her head, and in the small of her back and hips, I should have thought it important to examine the spinal chord and see if there were any lesions there; I don't know that sudden deaths occur from diseases of the spine; I have my doubts about that.

Adjourned till 3 P. M.

AFTERNOON SESSION.

Dr. Emmons—Cross-examination resumed.—I did not go to see Dr. Swinburne before he called at my house; I bought an ounce of aconite from Burroughs; can't tell how much would produce death; it is impossible to say directly how much would produce death; I think half an ounce would cause death; it would require more to produce death in some persons than in others; think it would require over half an ounce; *I think fifteen drops of pure tincture would have no dangerous effect*; I took thirty drops, such as Burroughs sold, on an empty stomach, and thirty on a full stomach; it caused nothing like vomiting, but merely the symptoms I described this morning. I know that a patient dies from apoplexy, from previous symptoms; all the organs would be in a healthy state where no cause of death could be found; the remark that I intended to make, of death by apoplexy without being able to trace any cause, would apply to the brain; I should say that, in such case, the food in the stomach would be in a normal state, and all the organs would be in a healthy state. There was, undoubtedly, a sufficient cause of death; but I have not seen what I deem a sufficient cause in this case; there was enough evidence, as described by the physicians on the post mortem examination, to account for death; I don't see, in all the condition of the abdominal viscera, except *the congestion*, a sufficient cause of death; I have never read of a case of death by the poisonous alkaloids where the disturbance in the organs was greater than this; it is not expected; death is produced by the administration of vegetable alkaloids in sufficient quantities; I don't think the appearances which are described are

due to that poison; I do not think them one of its specific effects; corrugation and contraction, congestion, &c., I do not think its specific effects; vegetable alkaloids do produce these appearances. I have read Fleming on aconite; read it here during the trial: not all of it; have also read the different treatises which have fallen in my way; I do not recollect the effects, as he described, when administered through the mouth; there is no doubt that the different modes of administration would modify the effect; it will have its specific effect, any way it is administered; its specific effect, whatever it may be, may be said to commence at the point it is administered; an animal may not die before it goes through the whole circulation; when the substance is introduced into the system, it produces a weakness, rather the *reverse of rigidity*. After the animal is dead, and before it becomes cold, I do not know whether rigidity takes place or not; don't think muscular contraction is one of the specific effects of aconite. I have not read Geoghegan's case; I have not seen a case of death by hysteria; bills of mortality give us many cases of them. In cases of death of hysteria, terminating in apoplexy, you might or might not have traces of the cause of death; the congestion on the brain might remain, or might not, as in some cases of apoplexy. I think a person might die of apoplexy without any lesion of some important organ of the brain; in saying this, I rely upon authors; there is undoubtedly congestion during life, but it may disappear after death. Where hysteria terminates this way, I think it is accompanied with proxysms, and death takes place from apoplexy. The symptoms are very numerous; the leading one is spasms; it is accompanied with crying, laughing, sighing, calling out, and a variety of emotional symptoms; had the spinal chord been examined, the examination would have been more complete; the diseases of the spinal chord are very lingering; all diseases of the spinal chord, below the second vertebra, are more troublesome than dangerous; diseases of this chord generally make themselves manifest.

Direct resumed.—Don't know that it is well settled where the disease *angina pectoris* is seated. Angina pectoris is a disease in the chest; do not know its cause; people die very suddenly of that. It is a disease around the region of the heart; it may be of slow growth. It comes on sometimes in paroxysms. Don't know enough about it to give its origin; it is a very painful, distressing disease. Don't know whether or not it has a seat in the heart.

Maria Hendrickson, recalled by defence.—Maria, my sister-in-law, ate a part of an orange on Sunday morning; she ate about half of it; she gave my sister and myself the remainder; ate it about 9 o'clock.

Cross-examination.—I do not recollect her eating anything else; it was the Monday following Maria's death that I sent her clothes

to be washed; they were wet when I sent them home; had not been ironed; sent them home on Tuesday or Wednesday following; sent home two night gowns and one cap.

David Haswell, for defence.—Resides two miles from Albany, in Bethlehem; knew prisoner and his wife; saw her at Veeder's on the night of February 22d; I was there attending a ball; conversed with her; I asked her why she didn't join the ball; she told me she was "ill," or "unwell;" she said she had a pain in her side, placing her hand on it, and afterwards she leaned against the bed; I offered to go down and get some sugar and brandy, or camphor; I went into another room, and, on returning, found her lying on the bed; told her that, if she was sick, she should have a physician; I think I said I would go for a physician, myself, if necessary; she said she didn't want any physician; she didn't think any physician could help her; she got up off the bed, before I left the room, and walked across the floor; while I was in the ball room, word was sent to prisoner that his wife wanted to see him; I saw him go out, and go up to the room where she was; I am not sure he was on the floor at the time to dance; I think he returned to the room again; saw them together a year ago last fall, the first time I knew her; and saw her again at a donation; have seen them together three or four times.

Cross examined.—Miss Schoonmaker was at this ball; think I saw prisoner dance with her; have talked some about this matter; I have never said that I was going to swear deceased said she was going to kill herself, going to die; it was in an adjoining room to the ball room she was sick; I saw her on the threshold of the ball room; I did not see her there any time before I saw her sick; Veeder's is about four miles from Hendrickson's; the nearest physicians reside about four or five miles from Hendrickson's.

Mr. WHEATON here stated that this *closed the oral testimony*, and Mr. HADLEY proceeded to read various depositions taken before Justice Cole.

First. The cross-examination of William Springsteed, taken twenty-third of March, before 'Squire Cole, in which he stated that he could not state the day that prisoner called at his store; that he would not swear as to the month, time, or day of the week; and stating, that because prisoner had been dressed as he described when in his store before, was the reason that he swore at this time he was so dressed; that he would not swear that it was not in January or February that prisoner was in his store, inquiring for prussic acid; that he would not swear it was not in February or March, and did not know what his cap was made of.

The District Attorney here offered to read from Springsteed's direct examination, in regard to the same.

The court ruled that all the witness had said at the time in regard to seeing the prisoner in the store, both on the direct and cross-examination, should be read.

Under this ruling, the District Attorney read from the direct testimony of Springsteed, his testimony giving a different complexion to the statements on the cross-examination.

The testimony of Wm. G. Burroughs, taken before 'Squire Cole, was here read by prisoner's counsel.

Counsel for defence announced their evidence as closed.

REBUTTING EVIDENCE FOR THE PROSECUTION.

Charles H. Cook, for prosecution.—Was a member of the grand jury when this matter of Hendrickson's was acted upon; it was in April or May; the mother of prisoner was a witness; she was interrogated as to whether prisoner's wife took her meals the Sunday before death; she stated that "she ate her meals as usual," that was, breakfast and dinner; that they took dinner at 3 o'clock; she said they had ham, sausages and buckwheat cakes for dinner.

She was interrogated as to whether the prisoner gave any account as to how his wife came to her death; she said he did not give any account. She said before the grand jury that she did not ask him anything about the matter, and that he didn't tell anything.

I was also present when Matthew Hendrickson was sworn; he swore that he did not stop in front of the store (Springsteed's) with prisoner; he swore that he didn't recollect of stopping there at all with prisoner during the week before prisoner's wife died.

In regard to the light, he said he got up and lit a candle; I believe he said with a match; he swore there was no light in the room.

Prisoner's mother said, before the grand jury, that deceased's teeth were set, and she pried them open with her fingers; she spoke of her putting her finger in where there was a tooth out, and prying them open.

Cross-examined.—I took no notes of the testimony of Mrs. Hendrickson. I have heard Mr. Colvin's notes, taken before the grand jury, read. I believe they were read to me on Friday last. Mr. Colvin interrogated her before the grand jury. I think Mr. Colvin asked her if prisoner's wife "had ate her usual meals on Sunday;" she answered, she ate "her usual meals." That is all the question I remember just now. I don't recollect any other questions he put to her on that subject. I believe he asked her what they had at those meals; she said hams, sausages, buckwheat cakes and pickles. Don't recollect any other answer. I don't recollect any other question being put to her on this subject, except what I have stated. Mr. Colvin asked her the question in regard to what her son said. He asked her if "John gave any account of it;" she said that he did not. Could not say for certain that others did not put questions of the same import. Mr. Colvin asked if "John gave any account of how she came to her

death, or any account of it." I do not pretend to give his exact words—merely the import of them. She said that "she didn't ask him, nor did he give any account." I will not swear positively that she said "her teeth were set." She did say she pried them open. I am not positive that Matthew said he used a match.

Adjourned till to-morrow (this) morning, at nine o'clock.

FIFTEENTH DAY.

WEDNESDAY, June 29.

Reuben H. Meads, for prosecution.—Was a member of the grand jury before which the mother and brother were sworn. Mrs. Hendrickson said prisoner's wife had ate her usual meals; dined at 3 o'clock. She said that prisoner gave no account of his wife's death. She said she did not ask him about it. She said that she discovered on that day nothing but that she enjoyed her usual health. She said that she opened deceased's mouth, to give her some camphor. She said she pried her teeth open with her fingers. Mathew Hendrickson, the prisoner's brother, was also sworn. He said he got up and lit a light. He said when the alarm was given he got up and lit a lamp. As I recollect, he said there was no light burning. He said that the Saturday, a week preceding the death of prisoner's wife, he was in town with prisoner. He did not recollect being with prisoner the week previous to the death, and stopping in front of Springsteed's drug store.

Cross examined.—I did take notes of the examination; they are now with me; have not been at Mr. Colvin's office; Mr. Colvin interrogated Mrs. Hendrickson; he asked her if "Maria partook of her usual meals on Sunday," as I recollect; she answered simply in the affirmative; he asked her if deceased went to church; Mr. Colvin asked her, in substance, if prisoner told her how his wife came to her death, or what the symptoms were; she said he gave no account of it; Mr. Colvin asked her, in substance, if deceased enjoyed her usual health; she answered that she did; Mr. Colvin asked Matthew who lit the light; he said he lit the light, and went up ahead; he said it was a lamp; there was a night gown presented before the grand jury; the one now shown me is the one; I examined it to see if there was any spots on it; I discovered two or three yellow spots, they were not very bright, on and about the chest.

Cross-examined.—I do not think camphor would have discolored it.

Mrs. Van Dusen recalled, for prosecution.—The night gown now shown me is one of those sent me the week after Maria died; it had not been ironed, and was damp; deceased took two night gowns to Hendrickson's; two came back, and this was one of them; both were wet; Angeline Hungerford ironed them; she was at my house at the time; before the gown was ironed, I noticed the

stain on it; it disappeared on ironing; there were spots on it near the hem, on the left side; one stain was a different color from any of the rest; it was not so dark; I gave the night gown to officer Brainard; I do not recollect that I saw it before the grand jury; one of Maria's night caps also came back from Hendrickson's; this had been washed.

Cross-examined.—I stated before the grand jury that there were spots found; Mr. Colvin was there at the time; they were damp when they came home; I sent for them; I was in the room when the ironing was done.

Angeline Hungerford, for prosecution.—I was at Mrs. Van Dusen's the week after Maria's death; I did some ironing for her; the night dress now shown me is the one, I think, I ironed; when I put my iron to the dress, it struck to my stomach; it made me feel sick; I went to the door to get some air; the effect of the iron upon the dress was to turn it a different color; did not finish ironing it, because I could not; it made me sick; I observed the spots now shown me, at the time I ironed it.

Cross-examined.—Mrs. Van Dusen is my aunt. I got sick as soon as I put the iron on to the dress; I ironed another one; don't know how long I was busy with this one; took nothing for the sickness; can't tell how long I was sick. I had been at my aunt's about a week before this; I was there six weeks altogether. No one ironed the night gown afterwards; I did see the night gown when it came home; Adam Long brought it. I was never sick before from ironing; tried to iron it twice; got sick both times; did not vomit, but had to go to the door both times; know the smell of camphor—have taken it. Have not lived at my aunt's since that six weeks; left there about ten weeks ago; came in town yesterday morning.

Direct examination resumed.—This was not the smell of camphor.

George Brainard recalled.—I received the night gown now in court from Mrs. Van Dusen, and have had it in my custody ever since; noticed the stains and marks upon it when I got it.

Cross-examined.—I got it last March.

Jeremiah Meads recalled.—I was one of the grand jury before whom this matter was investigated; I was present when Mrs. Hendrickson was sworn; she said that the deceased took her meals, as usual, on Sunday; she said she did not eat much breakfast; that at dinner they had ham, pickles, buckwheat cakes; I don't recollect of her saying anything more, than that she partook of her meals as usual; she said deceased was in her usual health, but complained some, and she did not consider her a healthy person; she said that prisoner gave no account to her of his wife's death; she did not swear to any questions being put to prisoner in regard to it; she said she did not recollect of

any questions in regard to it being put to him, or any answers; Matthew, in the first place, swore before the grand jury that he was awake by a crying noise; he thought it was John's voice; got up and lit a candle with a match; he said there was no light burning at the time he got up; he swore he was in town the Saturday previous to Maria's death; he did not recollect any other day in that week; he had no recollection of being in town any other day that week with prisoner, and going down Pearl-street, past Springsteed's store.

Cross-examined.—Most likely Mr. Colvin asked her if "Maria did not take her usual meals on Sunday;" don't recollect whether she said "Yes, sir," or repeated his question affirmatively; Mr. C. asked her the question if John gave any account of how his wife came to her death, or what the symptoms were; do not recollect the words of her answer; she said he did not; Mr. Colvin asked Matthew who got up stairs, and if he got a light; he said he lit a candle. Mr. Colvin asked him what he lit it with; I recollect that; I have notes of the testimony at home; I think I am sure that I have it in my notes, that he lit the candle with a match; I think I am positive as to that.

Dr. John Swinburne recalled, for prosecution.—I examined the spinal chord far enough to see that there was no disease of that organ sufficient to cause death; we don't know that diseases of the spinal chord will cause angina pectoris, since the nerves which supply the chest come entirely from the brain and not from the chord—nor do they pass down the spinal foramen. This disease is usually described as giving great paroxysmal pain in the chest, in the region of the heart. I am of opinion that disease going on in the spinal chord, below the third cerebral vertebra, would not produce sudden death, but merely paralysis or some nervous affection. *Cheilics' Surgery* is a standard work, edited by John F. South. He says, if the cord is destroyed at or below the third cervical vertebra, it would only produce paralysis; above that point it would produce immediate death. Also, Marshall Hall says, that disease of a serious nature, attacking the chord below the point mentioned, would be so marked for months previous to a fatal termination as not to be mistaken, *i. e.*, *loss of motion*, &c. I give it as my opinion that below that vertebra, diseases of the chord would merely produce paralysis; above it, *i. e.*, the third vertebra, it would be likely to produce sudden death, without previous indication of disease.

Cross-examined.—Angina pectoris is a disease of the chest. It is a pain and a sense of constriction in the chest. The pneumo gastric nerve seems to be the most affected; it comes off directly from the brain, through one of the openings in the base of the skull; it has nothing to do at all with the spinal chord; I was at Mr. Colvin's office this morning; it was after breakfast; was not sent for; went of my own accord.

Dr. Jas. H. Salisbury recalled, for prosecution.—A satisfactory result, in procuring aconitine from the tincture, I think could not be procured in twelve hours. I should not expect to procure a precipitate in that length of time. In the first place there are several processes to go through with. It has to be evaporated down; this requires time; the alcoholic extract obtained from this tincture is then to be dissolved in pure distilled water; this requires some time; this water solution has then to be filtered; this requires time—it is a slow process; this filtrate it is necessary to evaporate again at a low temperature; this requires several hours; we obtain from this the water extract; it is necessary to redissolve this with dilute sulphuric acid and distilled water; this requires some time; this is filtered—the filtrate is treated with a slight excess of ammonia; this precipitate, as formed, must be allowed to subside; this requires from six to eleven hours; it is necessary to wash this precipitate—to do it several times, each time allowing the precipitate to subside; this requires time; it is then necessary to dissolve it in diluted sulphuric acid and distilled water; it is then to be agitated some time in purified animal charcoal, to separate the coloring matters; the agitation would occupy, probably, from fifteen minutes to half an hour; then it is to be filtered; the filtrate is then to be treated with a slight excess of ammonia, and allowed to subside, which takes several hours. *I could not go through the whole process in less than three days; do not believe a satisfactory result could be obtained in less time.* It is necessary to watch the process, and constant attention would be required. In this process there is *no possibility of finding the phosphate of lime*, as spoken of by Reid, if the animal charcoal is pure. I purified it with hydrochloric acid. Phosphate of lime is inert, harmless. By my first process it is not possible to have obtained, in my result, a *poison, unless it was present before*. No one had an opportunity to get into my laboratory but myself; the phosphate of lime could not, by my first process, have been distilled over by the heat of a water bath. It requires a white heat. The object of the potassa is to combine with the acids and separate them from the alkaloids, so they, if volatile, can be distilled over.

Cross-examined.—I have obtained aconitine but once from the tincture.

REBUTTING EVIDENCE FOR PRISONER.

Maria Hendrickson recalled, by the defence.—The night gown now shown me is not the one my sister-in-law wore the night of her death; it is not now in the condition it was when I delivered it to Adam Long; it was clean then; the colored woman had one to wash previously, also that one; both the night gowns sent to Mrs. Van Dusen, by Adam Long, were washed by this woman; she had two night caps at our house, and one at Mrs. Veeder's.

Cross-examined.—I know that deceased did not have this night

gown on the night of her death; I was not in her room when she went to bed, was not present when she undressed and put her night gown on; she kept her clean clothes in our room; I recollect distinctly this night gown, or one just like it, being in my room; I saw it there among the clothes on Sunday, in the afternoon; it was among the other dirty clothes; I looked among them because I was putting something away; I recollect some towels; they were in a basket in my bed room; I don't know where the night gown lay in the basket; there were no articles over it that I recollect; I took hold of it merely; did not lift it out; this is the one, or one exactly like it; the week after her death we had washing done; we usually do our own washing; I do it; I saw it next when it was sent to wash; when I sent the two gowns home, I sent the night-cap; they were all tied up when given to Mr. Long, I believe; the same week I discovered the other night cap; it was hanging on the line; it was a fortnight after her death that the other night cap came from Mrs. Veeder's; it was at our house about a day before I returned it; I sent to Mrs. Veeder's both these caps at the same time.

Defence here rested.

The testimony here being announced closed on the part of the people and prisoner, Mr. HADLEY addressed the jury for the prisoner.

We regret sincerely that we are compelled to omit the address of WM. J. HADLEY, Esq., to the jury. The reasons are stated in his note below. It was an able effort—clear, comprehensive and eloquent, and well worthy his conceded reputation, as an advocate of high ability.

To Messrs. DAVID M. BARNES and W. S. HEVENOR.

DEAR SIR: Since the recent conviction of the unfortunate young man, John Hendrickson, Jr., my time has been so incessantly occupied in preparing the necessary papers on which to move for a new trial, that I really have not had leisure to comply with the flattering request you forwarded me, "to revise my argument in the case for publication." As I have not the vanity to suppose that my remarks could lend any additional attraction to your valuable report of this highly interesting trial, and as my professional engagements are of that nature to prevent my complying with your request for some time to come, suffer me to express the hope that you will not disappoint the public desire for its speedy publication by any further delay on my account.

It affords me much pleasure to congratulate you upon the fidelity and accuracy with which your report is prepared; and the entire omission of my feeble efforts, on behalf of a man I believe to be more unfortunate than guilty, cannot in any manner detract from its value. Their publication would but perpetuate the mortification I feel that they were not more worthy of the occasion, and that they were of so little benefit to my unhappy client.

Yours, very truly,

WM. J. HADLEY.

Albany, July 16, 1853.

ADDRESS OF DISTRICT ATTORNEY COLVIN.

Mr. HADLEY having finished his address, Mr. COLVIN addressed the Jury on behalf of the People.

Gentlemen, said he, I am rejoiced that this protracted case is drawing to a close. I am rejoiced at it, not only on my own account, in bringing relief from the labors which have so long and so intensely engaged me, but on account of the witnesses, who have been called and detained here without fee or reward; on account of the judge, who has presided here with such marked ability and impartiality, and with so much courtesy and urbanity; and more especially on account of yourselves, who have been taken from your homes and business, and all but incarcerated, and who have given such unwearied attention to this case, so vast in its magnitude and its consequences.

Gentlemen, a stranger would have supposed that the district attorney was on trial in this case, so much has been said of the "zeal," the "vindictive zeal and ferocity," which have characterized my course; and this strain of remark has been indulged in from the commencement of the trial.

My opening address has been characterized as peculiarly ferocious in its bearing upon the prisoner; my conduct throughout has been commented upon as tigerish and wolfish. But if I honestly believed, as I certainly did, that a foul murder had been committed, was it not my duty, as a fearless public prosecutor, to ferret out the murderer, regardless of all consequences? Had I been remiss in my duty, or had I faltered one particle in its proper discharge, would not the entire community have felt outraged, and would not they have said, and justly said, that the public prosecutor was unfit for the position to which he had been called?

The learned counsel for the prisoner have taken every opportunity of stigmatizing my course, but this is not unusual. Why, gentlemen, the counsel, the "venerable" counsel, who opened this case for the prisoner, has boastingly referred to a trial which was had some years ago, in which he acted as counsel for the prisoner, and in which I acted as public prosecutor, and that, gentlemen, was the trial of John J. Ross, for having robbed some German emigrants. The case was tried, and submitted to the court without argument of counsel. The court, in a few words, charged the jury, and the prisoner was acquitted; and, from that time to this, I have never been opposed to the counsel, in any case, in which this raw-head and bloody bones has not been cited as a bugbear to the jury.

Gentlemen, it has been said by the counsel for the prisoner, both in the opening and summing up of the defence, that my opening address has not been sustained in every part. I admit this, gentlemen. I admit that in some *unimportant* particulars, to which I shall by and by more particularly call your attention, it has not been fully sustained. But was this my fault? Remember, that in order to establish the case on the part of the prosecution, I was compelled to call upon the prisoner's family as witnesses, and I acknowledge that I have been disappointed in the nature of their evidence. I thought I knew the people's case. I had examined the witnesses before the police justice, and the grand jury, and of course I knew what they had sworn to there; and I had the right to suppose that they would swear, here, as they had previously sworn. Under these circumstances, I opened the case. My only motive was honestly to state the facts as I expected to prove them to you. What motive had I to do otherwise?

But however this may be, whether or not my opening address has been sustained, that is not now the question. The point which it now becomes my duty to discuss, and which it will soon be your province to decide, is this, and only this: Is the prisoner at the bar guilty or not guilty of the crime with which he stands charged?

And here permit me, gentlemen, to notice a few peculiarities, both in the opening address of the "venerable" counsel, and the address of his associate in summing up this cause. The counsel for the prisoner, in opening his case to the jury, stated that he would so materially change the appearance of the prosecution, that it would be difficult for the jury to distinguish it in the overwhelming mass of evidence for the prisoner. And he made his boast that he would break down and totally destroy our medical and chemical testimony. How far he has succeeded in performing his promise, you are to be the judges.

But he has also indulged in other assertions, not very commendable to him as a barrister at law, and as one of the leading members of the profession in the county of Albany.

He has told you that he thinks there is no harm in going out to old Schoharie county, and seducing a young girl under promise of marriage. And, in vindication of this bold assertion, he tells you that he himself has been in "old Schoharie," and would not like to disclose all the things that he has done there. And thus his own immoral conduct he adduces as a justification of the prisoner for the seduction of an innocent and trusting female. A noble counsel this, to preach morality to you and to this assembled crowd!

The *venerable* counsel also tells you that he too has had domestic jars, and, drawing from his own experience, he brings this in exculpation of the prisoner for his conduct towards his wife!

Again, the prisoner's counsel, Mr. Hadley, in summing up this cause, has, with emphasis, proclaimed that I have failed to prove that the prisoner was guilty of levity and dancing within four days after his confinement in the jail on the serious charge of murdering his wife. It is true that I have failed to sustain my opening in this respect; but you will recollect that I put the jailor on the stand for the purpose of proving the fact, and that the court held the evidence to be inadmissible; and, therefore, I failed to prove it. But I shall satisfy you, I think abundantly, before I conclude my argument, that if the prisoner did not show want of affection for his wife by dancing in jail immediately after his confinement, yet that his whole conduct since his marriage evinced that he never loved her, and that her life was not agreeable to him.

In my opening address, to prevent confusion, I divided the evidence under three general heads, the *moral, medical and chemical*; and I shall preserve the same order in summing up the cause.

In the first place, for the purpose of argument upon the moral evidence, I shall assume that the wife of the prisoner has been murdered.

Who has perpetrated that murder?

The counsel, Mr. Hadley, who has just addressed you, threw out the hypothesis that, if the prisoner's wife died of poison, she administered it to herself; and it may be that his associate counsel intends following this hypothesis. What! Maria Hendrickson poisoned herself! She, the pattern of every virtue—gentle, kind-hearted, affectionate, full of integrity, fervently pious, in good bodily health, and in the full possession of her mental faculties—destroy herself, and by a poison so terrible as that of aconite! and when she had gone to her repose in a husband's arms, who, however false and dishonest, was yet loved by her; dying amid terrific throes and convulsions, and yet that husband unconsciously of her death! Monstrous hypothesis! Ridiculous assumption! It is unworthy a moment's attention. Gentlemen, Maria Hendrickson has been *murdered*—murdered by her husband, the prisoner at the bar; and your verdict will record the fact, if you shall fearlessly discharge your duty to God and your country in the premises.

The jury box in our country is the palladium of the liberties of the people; in that jury box nothing but purity of mind and honesty of purpose should preside; a jury should discharge its duty honestly, fearlessly and justly; and the people have a right to expect that you will do it.

Ours is a country of law; ours is a country of liberty; and the jury box, in its pure, unsullied state, is one of the surest safeguards of law and of liberty; but if in that jury box corruption and deceit are allowed to enter, then liberty and law take wings, and there is no security in our republic. It is said by the counsel for the prisoner that they have destroyed all evidence of unkindness of the prisoner towards his wife. That they have proved that she loved him, loved him truly and tenderly, even though unworthy of her, I admit. But *they* say he loved her with a *pure and lasting* affection! Ah! gentlemen, in passing over the evidence in this cause, I think we shall be able to discover the extent of his love for her. The prisoner's counsel have gone among the family and relatives of the prisoner, and among those who have seen them casually together, for the purpose of proving his affection for her, and they tell us that they have seen them once or twice together, when they appeared affectionate to each other, and from this fact they argue that he bestowed upon her a sincere affection. But his actions speak louder than words and show that he loved her not.

Let us look at his conduct. The prisoner at the bar was married to his wife in the month of January, 1851. Within six or eight months after his marriage, we find him leaving New Scotland, the residence of his father-in-law, on account of a difficulty arising from a gross assault upon a young woman, which showed the "pure affection" he had for his wife!

Gentlemen, Green was tried for the murder of his wife, in Troy, some years ago, and on that trial it appeared in evidence that they had been married but a week, and during that time his conduct had been invariably affectionate towards her; and yet the circumstances pointed so clearly to Green as her murderer, that the jury, notwithstanding the apparent affection existing between them, pronounced him guilty of the murder, and he was accordingly executed.

The prisoner at the bar returns from Corning soon after the birth of his child. He returns, and what does he do? He communicates to his wife a loathsome venereal disease. Oh, this was another mark of the deep affection of the prisoner for his wife! *Affection*, first in obtaining it himself—*affection*, greatest, in imparting it to her!

A short time after his return, his child dies; and but a few weeks after its death we find him at a ball at Veeder's, on the twenty-second of February, 1852, while his wife was yet sick, confined to her bed, and that, too, by the disgraceful disease which he had communicated to her; and there, at Veeder's, we find him joining in the merry dance with Maria Schoonmaker, over the coffin, as it were, of his first-born child, and thoughtless of the situation of the wife he *so much loved*. Ah! here, again, we see his marked affection for his wife, *he loved her so!* Why, then, was he not standing by her bed of pain, administering to her comfort and consolation, while groaning under a loathsome disease which his unfaithfulness had brought upon her? *He loved her so!* Why, then, was he not by her side, instead of being in the ball room with Maria Schoonmaker, so soon after the death of his only child, forgetful of the solemnities of death, and disregarding his wife's afflictions?

And it is at this same ball that we find him exchanging rings with and giving his daguerreotype to Maria Schoonmaker. And here is furnished another evidence of the extreme affection of the prisoner for his wife! The daguerreotype was a likeness of himself, which he had previously given to his wife, and this he gives to a lady with whom, the counsel says, he was but slightly acquainted. But Miss Schoonmaker says all this was *only a joke*. Well, gentlemen, it may have been *a joke*, but do you believe it was? His wife sick at home, his child just dead, and he exchanging rings with Miss Schoonmaker, and giving to her his likeness, and dancing with her. A capital joke, this! But we have more evidence of the exceeding great affection of the prisoner for his wife! She is lying dangerously ill, and he is requested to go to Albany for a physician. He starts on Saturday morning, and does not return until Sunday morning; and he excuses his absence, and pleads his affection for his wife, by admitting that he had spent the night, clandestinely, with Maria Schoonmaker! And, as if to prove that the prisoner had confessed the truth to his wife, in regard to this matter, his counsel gravely put upon the stand the parents of Maria Schoonmaker, to show that if the prisoner did thus spend the night with their daughter, it was without their knowledge or concurrence.

The counsel thinks the prisoner has perpetrated a *capital* joke in Schoharie. He tells you he met with a young girl there one night, and said "How do you do?" met with her the next morning and said "How do you do?" and did not see her again that day "until the shades of e'en began to fall." And he tells you he staid with her that night, and in the same room all night. And this is a capital joke—a thing to be laughed at; what harm in that? What harm in robbing a young woman of her virtue, and that too under promise of marriage? But, the counsel tells you that *he too has been in old Schoharie*; and he would not like to have all the deeds which he has committed there exposed to the public view. And on this ground, and this ground alone, he terms the seduction of a simple minded female, under promise of marriage, and with the representation that the prisoner was a single man, a *capital* joke!

Maria Schoonmaker only considered the exchange of rings and the giving of the daguerreotype "a joke!"

And here, in this conduct of the prisoner in Schoharie county, we have another instance of the *exceedingly deep affection* of the prisoner for his wife!

Well, gentlemen, we left her at the house of Mr. Van Dusen, her father—the house that had sheltered her and her unfaithful husband for most of the time since their marriage. After his return from Corning, and during the first winter, we find the prisoner's wife accusing him of stealing a number of articles, such as a buffalo robe, whips, &c. He attempts to deface the robe, and she refused to permit him so to do. Upon her resisting him, he puts her out of the room, and she comes down stairs *crying*; another evidence, this, of his *affection* for her!

In the month of October last, Mr. Van Dusen died, leaving his property to his wife, during her life, and at her death to be divided between his son Lawrence, and his two daughters, Maria and Susannah. Hence, it will be seen that the prisoner had no interest in his wife, except such as might arise from pure affection alone. Child, he had none—expectations, he had none—affection for his wife, he had none.

Here, then, we have a starting point. The moment a bad man loses all affection for his wife, and he has no tie of interest to bind him to her, his mind is in a fit mood to rid him of her presence, and if he possesses the requisite nerve he will not hesitate to murder her.

I submit to you, gentlemen, it cannot be alleged by any one that this prisoner has not that nerve. His conduct, throughout the whole of this trial, has shown him to possess a strength of nerve which would enable him to perform any act to which his wicked passions might prompt him; a nerve which would enable him to walk boldly up to the cannon's mouth, fearless of consequences, and which enabled him, in cold blood, to perpetrate the horrid murder for which he is now on trial.

I say, then, that here we have a starting point; and now let us look at other features.

What was the prisoner doing in town on the Tuesday which has been spoken of? Why do we find him inquiring, during that week, in different drug stores in this city, for deadly poisons? But Matthew tells us that he was inquiring for muriatic acid, and Maria tells us she sent him for it as a tooth wash!

On Tuesday, March 1st, we find him going into the drug store of Springsteed & Bullock, inquiring for prussic acid—not muriatic acid, which Maria tells about; and on inquiring for it he leans over the counter, and speaks so low that others in the store could not distinguish what he said; and not being able to get it there, he was directed to other drug stores, and left hastily.

(The counsel here discussed, at length, the discrepancy existing as to the time prisoner was in Springsteed's store, alleging that it was on the Tuesday preceding her death.)

Well, gentlemen, he leaves the store and goes up the street.

And here the question is raised as to where this boy—"boy," as the venerable counsel for the prisoner calls him—obtained his knowledge of these poisons. I cannot tell; nor do I know; nor do I care. It appears that he was frequently in Dr. Springsteed's office, where he might easily have ascertained the nature of the several poisons for which he is found inquiring.

The counsel for the prisoner (Mr. Hadley) has indulged in wanton abuse of the evidence of most of the witnesses for the people; and William Springsteed, at whose store the prisoner inquired for the prussic acid, has received, at least, his share of it. I think he will survive the attack, and that your verdict will be his best vindication.

The venerable counsel who opened the case for the prisoner had also much to say against our witnesses, especially our medical and chemical witnesses. Dr. Salisbury was but 28 years of age, and was therefore not entitled to credit; while Mr. Fleming, whose work on the subject of aconite, to which the counsel has alluded, and upon which he has told you he places his main reliance to show that the prisoner's wife did not die from the poison of aconite, was but 21 years of age when he wrote his treatise! But we too have succeeded in obtaining a copy of Fleming's work, although at great expense and trouble, for the counsel would not permit us to see his, and I will undertake to show you that Fleming is an express authority, so far as it goes, in our favor.

Dr. Swinburne too came in for his share of vituperation from the venerable counsel. You all recollect, when Dr. Swinburne was put upon the stand, the bearing of the venerable counsel towards him. The deposition of Dr. Swinburne before the coroner must be had! Drs. March, Armsby, Staats, and other eminent physicians of our city must be present and listen to his evidence! His examination was arrested, for at least half an hour after he had taken the stand, to enable these gentlemen to sit by, hear and take notes. They came and vanished, and none of them ever returned to attempt even to contradict or refute him except the redoubtable Dr. Staats! All this was done to terrify John Swinburne, to drive him from his position, with what success you witnessed. But Dr. Swinburne is only 33 years of age; he is nothing "but a 33 year old colt," in the choice and elegant language of the venerable counsel for the prisoner. However that may be, it is very certain that he has uttered no boast of being a full grown stallion, who has rioted and luxuriated amid the green pastures of old Schoharie!

(Involuntary merriment at this sally throughout the court room.)

We now come to the testimony of William G. Burroughs. He testifies that, on the week of the inauguration, he sold tincture of aconite to a person dressed as a countryman; that that person had on a blue overcoat, and a cap of a rusty, faded color; that he sold him a sixpence worth, and that he held down his head so that his face was not fairly seen; that it appeared, however, flushed, as if exposed considerably to the sun; his hair was a light color and his complexion fair; he had no whiskers, and he was a good sized man, and that the prisoner resembles the man in every respect except complexion, which has become pale, and the flush of which has departed by his long confinement. He was shown the coat and cap, which was delivered to officer Brainard as the prisoner's, which is acknowledged to be his, and he

says the coat corresponds with the coat worn by the person to whom he sold the aconite, and that the cap is nearest in resemblance to any he ever saw.

If the prisoner is not the man who wore the blue coat and plush cap, and who purchased the aconite of Mr. Burroughs, who is the man? and where is the man? If it be not the prisoner at the bar, I call upon him to step forth, for John Hendrickson, Jr., stands upon the brink of the grave! The testimony of Mr. Burroughs, taken before Justice Cole, has been published for months far and wide. The man who purchased the aconite was described by him as wearing a blue coat and plush cap. The theory of the prosecution is, that the prisoner at the bar is the man; if that theory be false, I call upon the man with the blue coat and plush cap to show himself, and save the prisoner's life. There is no answer—all is silent as the grave!

The counsel for the prisoner talks much about the looseness of Burroughs' recollection. But Mr. Burroughs tells you that, the day after he heard of the death of the wife of the prisoner, his clerk informed him that Mr. Brainard had been there, and inquired whether he had sold any prussic acid during the week before. "No," said he, "I have not sold prussic acid, but I sold aconite last week." Burroughs, to my mind, fixes the time conclusively when he sold the aconite. However indefinite he may be in other respects, in regard to the week when he sold the aconite he is entirely positive. It was the fore part of the week of the inauguration, the week previous to the death of the wife of the prisoner.

But the counsel says we prove too much. We prove by Alvah Winne that he saw the prisoner going into the drug store of Wood, on Saturday, previous to the death of the deceased. I do not know what was his business in that drug store at that time. Perhaps it was to procure the *muriatic acid* which his sister swears about!

I should have noticed, in connection with the other evidence as to the affection of the prisoner for his wife, the evidence of Frederick Hungerford. The counsel says the prisoner used the words he did from animosity to her brother Lawrence, for whom it was expected the deceased would be obliged to go to Albany as a witness in a suit there pending. The counsel did not give the language of the witness. But in such a case as this, notwithstanding I am as little accustomed to profanity of language as the counsel for the prisoner, I should consider myself remiss in duty did I not give it here, in its full force and meaning: "If she goes there, I'll break her G——d d——d neck." And this, the counsel tells us, was leveled at her brother. Ah! in this we see, again, a token of the *affection* which this man, who shed such "hot and scalding tears" in memory of the deceased, bore to her while living.

I would call to your mind an incident which took place previous to this time, and which was given in the evidence of Mrs. Van Dusen, at which the counsel for the prisoner seems to bestow but a passing glance. On one occasion, when the prisoner was coming to the city, he asked his wife for leave to bring her medicine. She replied, "No, John, I don't want any medicine." Not satisfied with this, he asks again for leave to bring her medicine. She again replies, "*No, John, you'll bring me some of that poison which you brought me last summer. I wouldn't take it, and I burnt it up.*" The mother, of course astonished at this answer, remarked, "Poison! Maria?" She answered, "Yes, mother; you didn't know anything about it. I wouldn't take it, and I burnt it up." Gentlemen, what does this mean? It means just this, that last summer, when the prisoner had procured his wife to visit his father's, he had made an attempt upon her life, which she, in the trusting love of a woman's heart, had forgiven. She had kept the secret lodged in her own heart, and had never revealed it, even to her mother. But his importunity to get her medicine again, made her, unconsciously, as it were, speak out the terrible apprehensions of her life.

The counsel for the prisoner, to support the insinuation, I suppose, that the deceased had committed suicide, called to the witness stand Mr. David B. Haswell, who swore to having seen her at a ball a few weeks prior to her death. And he tells us she was very sick—so sick that he himself offered to go for a physician—but she refused. And he tells you, too, that while she was sick and suffering, her husband was in the adjoining room frolicking and dancing with Miss Schoonmaker! Why was he not by his sick wife's side? He who loved her in life with such true and genuine affection, why was he not there to soothe her in her pains? Was this another instance of his *pure, ardent affection* for his wife? But, Mr. Haswell tells us (and David Haswell is an honest man) that, when he offered to go for a physician, she replied, "Oh no! I don't think any physician can ever do me any good!" Truly, "no physician could ever do her any good." Her disease was one which baffled all physicians' skill. It was the sickness of the heart, in consciousness of unrequited love. A woman's love—who can tell its depth and strength!

"Man's love is of man's life, a thing apart;
'Tis woman's whole existence."

In this she lives and moves, for it is her own bright, native element. When she once really loves, she loves strongly, firmly, unchangeably, even though the object of her affection should prove totally unworthy—though he should sin ever so deeply—though he should plunder, rob and murder—her trusting nature would not forsake him. As the ivy clings to the oak, and sustains it amid the roar of the tempest, so she, in life and in death, will cling to the loved one. Maria Hendrickson loved her husband, unworthily as he had shown himself of her pure affection. It made her sick to witness his attentions to Maria Schoonmaker, with whom she knew he had previously exchanged rings, and to whom he had given his daguerreotype. But he had no love for her. He leaves strangers to minister to her when she threw herself upon the bed in agony. Indifferent to her grief, he pursues his pleasures amid the mazes of the merry dance. But his counsel insist that he loved her with strong and pure affection! Yes, we have an evidence of it in his letting his broken-hearted wife go home, unattended by him, while he stayed behind to bask in the smiles of Maria Schoonmaker!

But why was David B. Haswell called? Was it not, as I have said before, to prove what the "venerable" counsel intimated in his opening, and what the remarks of his associate fully justify me in supposing he will attempt to enforce upon your minds, that if the deceased was poisoned at all, it was her own hand that administered the deadly dose. No, gentlemen, as I have before remarked, Maria Hendrickson never committed suicide, and the evidence of David B. Haswell proves anything but self-destruction.

Go with me, then, attentively, through the evidence in this case, as well that on the part of the prosecution as of the defence, and if I do not succeed in convincing you that the prisoner at the bar murdered his wife in cold blood,—fiendishly, devilishly, damnably murdered her,—then I shall acknowledge myself incapable of judging of the weight of evidence.

The indictment charges the prisoner with having murdered his wife by administering to her the tincture of aconite. If he administered to her poison of any kind, feloniously, he is guilty under this indictment, for we are not obliged to show more than that she came to her death by poison of some kind given her by the prisoner. You will recollect the appearances of the body as described by the witnesses—the unusual paleness, the swelling of the face, the blood thrown to the extremities, and the settling of it on and around the hips. You will bear in mind the jaws being firmly set, the remarkable rigidity of the limbs, and, in the last connection, it must be remembered that the weather was mild and thawing, and that such rigidity cannot be attributed to cold.

At this point, Court adjourned till 3 P. M.

AFTERNOON SESSION.

Mr. Colvin resumed.

At my close this morning I glanced at the external appearances of the body. What are they internally, on dissection? You find here, aside from other appearances, the stomach to be entirely empty; and in no case could this have occurred, even if purging had taken place, unless by vomiting. You find that on Sunday she had eaten her usual meals, was in her usual health, except having more than ordinary costiveness. She had gone to church in the evening, and on returning, after reading the Bible, had gone to bed, up stairs in the attic. Now remember there was a stove pipe leading from Matthew's room up into the room where the prisoner and his wife slept, and they say there was a light burning all night in Matthew's room, and its light must have been seen in the room above; and if the prisoner woke up, as he says, and found his wife dead, why, seeing this, and knowing that there was a light down stairs, did he not jump up and go after it, instead of calling to Matthew, and waiting till he brought it up?

Another feature here is, that after the family got up stairs, it appears that she was dead; that her jaws were fixed; and that prisoner was sitting up in the back part of the bed. While the family were up there, according to the testimony of Maria, of Matthew, and of Matthew's wife, who all agree in this, nothing was said to prisoner in regard to his wife's death, under these singular circumstances, and no account of it was given by him! They ask no questions, and he gives no account. These witnesses tell the same story. His mother, however, did recollect that he had spoken to her about it, here, but she did not when she was sworn before the grand jury! Now if it was a natural death, all this is most inconsistent and absurd; but if from poison, administered by his hands, his conduct was just such as would have been expected.

Why did he not send for a physician? Why not send for his poor wife's mother? But a short time would have been required for either; there was good sleighing; the

nearest physician was within four miles, and the mother the same distance. Would you—would any of you have acted thus, had you awoke and found your wife dead beside you? Would you not have shown more care even had you found a horse dying in your stable? And what did the prisoner do after he got out of bed? He went and sat upon his chest, standing by the head of his bed, and under the window out of which, I submit, the vomited matter was thrown. Had she vomited, and had the clothes been marked from it, how readily could they have been put in that chest. She did vomit, and the stained clothes were probably in that chest.

The prisoner's counsel furnishes no account of the contents of that chest, and the prisoner remained upon it until the body was removed below. Was not this a singular fact? Now it has been said that to prove vomiting will involve virtually the conviction of the whole family. I repudiate any such conclusion as this. I deny that we are to look into the motives of the family; but I do say that, after the medical and chemical testimony we have had here, I shall believe that miracles are now worked before I do that she did not vomit.

Now a night gown was exhibited to you with stains upon it, and it is said it is not the night gown she had on! It was the gown she had on when prisoner administered the fatal dose; but it was not the night gown she had on when Mr. and Mrs. Meads came there; it had been changed, and changed by the prisoner at the bar.

Follow the prisoner to Clarksville, on the Tuesday morning succeeding the death of his wife. Stephen Van Dusen, the brother of his wife, is also there. He asks permission to see the body of Maria. His mother tells him he may see it. He returns, and finds the prisoner has gone to the wood house. There he is, walking in an agitated manner, with his head down. Prisoner asks him if he had seen Maria. He replied yes. Prisoner wanted to know of him what "they are doing." Stephen said the coroner and physician were talking together. Prisoner asked him to go in and see if they were willing he should send for Dr. Springstead, and to ascertain what they were doing. Stephen went and soon returned; and before he reached the prisoner, he was inquired of by him, suddenly, "*What are they doing? What do they find?*" Stephen replied, "They are taking out the stomach; I don't know that they have found anything." "One thing," said the prisoner, "I know, they *won't find* arsenic." Stephen looked up at him, surprised. The prisoner's head fell, and he immediately passed from the wood house. Ah! gentlemen, do you recollect the words of Webster, when he was told that they had found Parkman's body, "*What! the whole of it?*" The words of Dunbar, too, "Have they found both bodies?" These were the words of Dunbar, were they not (appealing to Mr. Wheaton, who had been Dunbar's counsel)?

Gentlemen, how did he know they would not find arsenic? If she had poisoned herself, how did he know that she had not done it with arsenic? And if he poisoned her, did he not know that they would not find it?

You find him then, while the physicians are engaged in the examination of his wife's body, passing to the barn yard, and there coolly commencing talking to Stephen about some hens and cows, and some sheep, which he said Maria's father had given to her before his death; to which Stephen replies, "It don't matter much—she did not live to enjoy it." Prisoner said, "Yes, on Sunday night at 10 o'clock we went to bed; she was as well as usual; at 2 o'clock I woke up, and found her lying in the middle of the bed, crowding me. I said, Maria, lie over, you crowd me. She did not stir. I put my hand over on her face and found her dead." Dead, gentlemen, at that hour? When the family came up, soon after, they did not then think her dead—her face no colder than if asleep! In all this conduct there is strong moral evidence of the prisoner's guilt.

Now, on the Monday evening after his wife's death, prisoner was examined before the coroner's jury. We refer to Dr. Swinburne's testimony, and find that the prisoner there swore that his wife had enjoyed her usual health, and had taken her usual meals, but that she had not had a passage in two weeks; and yet, gentlemen, we find the stomach and small intestines entirely empty. The prisoner says she had not a passage in two weeks. What, then, became of the contents, if she did not vomit? When interrogated as to whether he had been in town the week previous to her decease, he did not recollect at first, but finally stated he had been in town on Saturday; and when asked if he had been to Bullock & Springstead's, he said he had not. To the question, if he "had been in any drug store," he appeared startled, and said he did not remember.

Now, gentlemen, this is what lawyers call negative evidence. It is a fair inference that he went into Springstead & Bullock's store for some improper purpose. If there was nothing in it, if his intentions were innocent, why did he deny it? or, rather, why did he not honestly confess it?

Let us now glance at Aley's testimony, which was passed over by the prisoner's counsel, who has just addressed you, and which *they* wished to avoid. The day of his

wife's funeral, and on his arrest, the first question he asked of Aley, was, "Have they found poison?" and then further asked him, "Suppose they put poison in her stomach yesterday, can it be known or ascertained to-day?" Aley replied, "Do you mean the physicians?" He said, "Yes;" and was answered, "They will do no such thing." Now, gentlemen, the English of all this language is this: "I put poison into her stomach on Sunday night; the post mortem was held on Tuesday; after that lapse of time, could the physicians know that poison had been put in there?"

Here, again, gentlemen, from the "abundance of the heart the mouth speaketh," and it is a little drop here and a little drop there which will fasten upon the prisoner the guilt of his terrible crime.

It is a singular fact that, whenever a person has committed a great crime, he is continually talking about some feature of it, and constantly harping upon it. Murder will out; and the murderer may go round the world, but the mark of Cain is on him, and will remain until he goes into the tomb.

We come now to the matter of the light seen by Wendell Oliver. Taking it in connection with the testimony of Mr. and Mrs. Meads, Mr. Casserly and Aaron Palmatier, it shows conclusively that if Oliver did see a light—and that he did see it, I submit, is abundantly proved—it must have been seen about 1 o'clock in the morning, and from the prisoner's room, and when he was engaged in his hellish work, and when she was breathing her last in the agonies of death.

These, gentlemen, are the circumstantial proofs which point to the prisoner at the bar as being guilty of the murder of his wife.

And here I enter upon a ground which I am proud to tread. I am proud of our medical and chemical witnesses. I fear not all the reproaches of counsel against our chief medical witness, John Swinburne. It will take a greater man than the counsel on the other side to injure his reputation. He is manly and modest; one of the best medical witnesses ever called upon the stand; he was born in Lewis county; the son of a farmer; commenced his medical education in 1842; studied and dissected for four years, two or three years of which time he was in the office of Dr. Armsby, of this city, professor of anatomy in the Albany Medical College, and one of the most eminent anatomists in the country. And, whatever counsel may say, the community will believe Dr. John Swinburne against all the Dr. Staates who have existed since the commencement of the world. Now, gentlemen, you observed that Dr. Mareh and other distinguished medical men were here during Dr. Swinburne's examination; they heard him testify, and yet not one has been brought forward to gainsay a word of his evidence, except Barent P. Staats, who alone has had the courage to express a dissenting opinion, and which was no sooner expressed than it was just as courageously eaten and retracted.

But the "venerable" counsel was going to turn this John Swinburne inside out. He made his boasts of it; and how he has redeemed his promise, you, gentlemen of the jury, are able to judge. The counsel says that John Swinburne is but 33 years of age. Is it a crime to be young? Are great deeds and great discoveries to be performed by old age alone? Napoleon was only 22 years of age when he fought the battle of Marengo, and laid the power of Austria, one of the proudest monarchies of Europe, in the dust, and elevated Italy to a rank among the nations of the earth; and long before he was of the age of thirty he had carried his triumphant eagles over all the continent, and was the most powerful and dreaded potentate in Europe. Our own beloved Washington was but twenty-three years of age when he saved the remnant of the British army, who were defeated under Braddock, and hence he was subsequently called to be the commander-in-chief of the American army. William Pitt was prime minister of England when but twenty-one years of age, and acknowledged to have been one of the ablest of all England's ministers. Our own Jefferson was just thirty-three years of age when he wrote the Declaration of Independence. Sir Humphry Davy, the most eminent of modern chemists, became distinguished before he was twenty years of age; and Sir Astley Cooper, the most eminent of all surgeons and physicians, distinguished himself at the early age of twenty, and soon thereafter was in the receipt of from \$80,000 to \$100,000 a year.

But who is John Swinburne, I repeat? He is a young man of clear mind, strong will, and extraordinary promise; and whose examination and evidence, as a witness on this occasion, have given him a reputation and position, throughout the country, such as few young men have ever before acquired. His course is upward and onward, and a few years more will place him head and shoulders above all his compeers.

I have already remarked upon the trepidation in which the counsel on the opposite side were thrown when he took the stand. I fancy, gentlemen, the venerable counsel has encountered him before, and having failed to get the better of him on cross-examination, he thought he would, on this occasion, resort to the weapon of intimidation; but it was of no avail; the witness knew himself, and the impregnability of his

intended positions. There he sat, as calm as a summer's morning, unruffled and undisturbed, and wholly unterrified by the ferocious bearing of the counsel.

(Here the district attorney went into an elaborate review of the evidence of Dr. Swinburne, both on his direct and cross-examination, and the conclusion at which the Doctor had arrived as to the cause of death.)

First, that the external appearances indicated that she did not die a natural death, and that she had vomited, and that the unusual rigidity of the muscular system, taken in connection with the softness of the cellular tissues and fatty portions of the body, indicated that she died of poison. Also that the bruise on the lip was made before death.)

Before concluding his review of Dr. Swinburne's testimony, court adjourned till Friday morning.

SEVENTEENTH DAY.

FRIDAY MORNING, *July 1.*

Court opened at 9 A. M., when Mr. Colvin resumed.

He continued his review of Dr. Swinburne's testimony. As to the ecchymosis on the lip, he called the attention of the jury to it; his theory was, and the theory was sustained by the medical testimony, that that bruise and cut were made before death, and by the prisoner when forcing a vial, containing the deadly dose, between her lips. If she died in a fit she made it herself, but if not the prisoner at the bar did it; in either case it tells the tale, because the prisoner at the bar must have known of her convulsions and struggles previous to the last throes of expiring nature. And here the Divinity of God has left that one mark, which plainly points to the prisoner at the bar as guilty of the brutal crime with which he stands charged. That mark was given when he forced the fatal poison down her throat.

The learned counsel then went into a very extended review of the post mortem appearance, as detailed by Dr. Swinburne. He first referred to the condition of the blood, which was fluid, indicating that it had been poisoned. To sustain the theory that aconite has the effect to poison the blood and render it fluid, he read from Fleming's Treatise and from the British and Foreign Medical Review, vol. 20. The counsel proceeded to examine the entire testimony of Dr. Swinburne, in relation to the internal appearances, in detail, and from which Dr. Swinburne had drawn the following conclusions: That there was no cause of death except such as existed in the stomach, the intestines, and the gall and urinary bladders. That the appearances of extensive contraction, corrugation, congestion, the great amount of viscid mucus in the stomach and intestines, and which mucus was tinged with blood, all indicated the presence of an acrid irritant poison, and that they could not have been produced by any other means or by any known disease. And hence the Dr. testified that the cause of her death was poison.

The emptiness, also, of the stomach and small intestines, in connection with their thickened walls and diminished capacity, the stomach being less than half its natural size and the small intestines about one-fourth diminished in capacity, and the viscid mucus being tinged with blood, in connection with some external appearances before mentioned, established the fact beyond all doubt, in his mind, that she vomited; and that the poison which was administered to her, and with which she was killed, was, in his judgment, aconite; that such poison would produce the external and internal appearances, as described. And in these clear, explicit and decisive opinions of Dr. Swinburne, continued Mr. Colvin, he is ably and entirely sustained by Doctors Ingraham, Smith and Salisbury.

Thus have I detailed to you the testimony of Dr. Swinburne (continued Mr. Colvin), and on his cross-examination that testimony is not changed one particle. No! not the shadow of a shade.

Now, gentlemen, we ask the counsel on the other side to point out a single case, and they will oblige us, and oblige you by doing so, a single case where the stomach and intestines have been entirely emptied unless by the action of aconite. We ask them to come forward, and give authorities, produce their books, where there is one case of such contraction and diminishing of the intestines, and the presence of the blood, unless caused by the action of aconite. We will furnish them all the books, and we ask of them to do it.

Thus, gentlemen, upon our medical evidence alone, in connection with the moral, without the chemical, might we safely rest our case.

(Here Mr. Colvin read from various authorities to show where convictions had been had on the moral and medical evidence alone, and where the chemist was unable to detect the presence of the poison.)

The counsel for the prisoner have found great fault because Drs. Swinburne and Salisbury were here, hearing the examination of their medical and chemical witnesses, and suggesting questions to counsel. For this they have been assailed and vituperated. Now, was there anything wrong in their being here? They came by invitation of myself and the attorney-general. We were not physicians or chemists; and it was by our express request that they came here.

John Swinburne and Dr. Salisbury do not come here as paid witnesses; they do not know the prisoner; they have no interest, but truth, in this case. They come here as scientific men, by our request. They know, by the post mortem examination of the body, and by experiments which they have since made, and by the careful study they have given the case, that the wife of the prisoner died from poison. If you are not to rely upon such evidence as theirs, in God's name, what murderer is ever to be convicted? Let the murderer go forth, slay as many wives as he wants to; let him, in the dark hour of night, administer the fatal dose; let him, after the deed is accomplished, call out to his brother, in a feeble voice, "Matthew, bring up a light;" and then let the verdict of a jury acquit him; and let him marry another, and when he gets tired of her, dispose of her in the same way! One verdict of acquittal, in such a case as this, will make fifty murderers.

The descendants, gentlemen, of the Puritan fathers are not afraid to convict. They brought in a verdict of guilty against Dr. Webster; and though the defence had procured eminent men from New-York to swear that it was impossible for the Boston dentist to identify his own work, and although it was sworn that Dr. Parkman was seen in the streets of Boston two hours after he had been murdered, yet the spirit of the Puritan fathers was in that jury box, and, invoking the blessing of God on their deliberations, they pronounced him guilty!

Another feature in this case: I read to you, from Taylor on Poisons, to show that there is no one symptom peculiar to poison; but, at the same time, there is no one disease which presents *all* the characteristics met with in a special case of poison.

This is what I told counsel for the prisoner in my opening, and he cited several cases of death by hanging, drowning, &c., where some *one* of the features of this case was present, as congestion of the stomach; but in no case, except that of poison, can they all be found. If there is such a case, let counsel produce it; let him give the chapter and verse, and my friend, the attorney-general, will be glad to examine it.

I will now cite to you a case where a woman murdered her husband with poison, precisely as we say the prisoner murdered his wife, by pouring it down his throat, and where, on a post mortem examination, not a particle of poison was to be found, and where, though he lived several days, he could give no account of how it was done or who did it. (Counsel here read the case of Jane Humphrey, from Taylor's Medical Jurisprudence.) This proves that poison may be administered to persons when asleep, and without the victim knowing who did the act.

Now, if the prisoner poured the poison into his wife's throat, as we say he did, she could not cry out. The very nature of aconite is at once to choke—to render speechless, blind and deaf—but still sensible of every passing occurrence. There sat the prisoner upon the bed, his wife dying from the poison he had administered to her, and vomiting, and vomiting, and vomiting, while he held the chamber to her mouth to receive the vomited matter, she all the while conscious of the presence of the husband whom she had so dearly loved, and whom she knew, although she could not speak, was engaged in the infernal tragedy of this her murder. Oh! what a scene was this for God and his holy angels to look upon! Oh! what were her feelings at that fearful moment! She had no mother there, no father, no sister, no brother to come to her assistance! There she was, dying, dying, dying! and there and thus she died!

Then as to the fact that no physician was sent for: I hold it to be utterly impossible that a man who loved his wife would not have at once sent for one. Gentlemen, I repeat that, even were one of your horses sick, and a veterinary surgeon lived within four miles, you would send for him, and see what could be done for it. Yet here is this man, his wife lying dead beside him—some of the family testify that, when they first went up, they did not think her dead—and yet he does not do for a wife what you would do for a horse! Is it not monstrous? And can you account for it on any other supposition than that he administered the poison? It is incredible, it is utterly impossible!

(Mr. Colvin here read at considerable length from various authors; among others, he quoted at length the very interesting case of McConkey, for the murder of her husband by aconite, reported in the Dublin Journal, by Dr. Geoghegan.)

And now, do not the facts in this case furnish stronger evidence of guilt against the prisoner than they did in that case, where the chemist was only able to express an opinion from the post mortem appearances, and that such appearances indicated death by aconite?

Counsel here again asked why, if Dr. March and others who had been brought here to listen to the medical testimony of the prosecution, why, if they could contradict it, had they not been brought on to the stand? Why did Dr. March leave and——

(Here counsel was interrupted by the objection of Mr. Wheaton to this train of remark. He (Mr. W.) would explain, if he chose to, the reason why Dr. March left; it was professional business that called him away.)

COLVIN.—I allude to it, sir, for no other purpose than to defend Doctors Swinburne and Salisbury, and to show that they were not only entitled to weight, but to crushing weight. Ah, gentlemen! their evidence crushes out this prisoner's defence; yes, it crushes out the very bones and marrow of it!

Why this flourish of trumpets about opposing physicians, if it were all to end in smoke? Why bring this distinguished chemist from New-York, who could not testify without keeping his gloves on, even in this sweltering weather, and who was unable to tell his own age without looking at his certificate? Our own town is full of medical talent; and, from them all, they could prevail on no one to take the stand, except Dr. Barent P. Staats, who, on thorough cross-examination, does not undertake to contradict our witnesses. And I now say, all our medical witnesses must be crushed before you can acquit the prisoner at the bar.

Now, who is Dr. Barent P. Staats? Has he changed the features of this case? He is one of the physicians who attended the post mortem examination of Mr. Koon. Here, although Drs. March and Hun and others of our distinguished medical men were present, he differed from them all. He attributed his death to the blow he had received, and they attributed it to the shock upon his nervous system. He starts off on a tremendous trot to outstrip our medical witnesses. It would not be satisfactory to him that she died of an irritant poison, or any poison. There was no evidence to him of violent vomiting, and no evidence that she vomited at all.

On his cross-examination the Dr. takes a back track, and swears that in this case he had evidence that there was inflammation and contraction to a great degree, and thus, said he, we have two prominent evidences of vomiting! He could not tell of a single disease, to his knowledge, that would produce these two appearances, without vomiting! He did not know of any such disease. Now, what other man in the entire community would swear like this, except Barent P. Staats?

And here we might stop, said the learned counsel, with Barent P. Staats; he rides double, and swears on both sides of the question. Oh, what a profound physician is here! This doctor's biography should be written, in connection with the eulogium which the prisoner's counsel (Mr. Hadley) has pronounced upon him, and they should go down to posterity together, so that the world, in all capital cases, might have the benefit of the doctor's extraordinary medical opinions! Europe should not be without his presence; but how can we spare him from America?

Again, you find him swearing that an irritant poison might be likely to produce the appearances described by Drs. Swinburne and Salisbury; in cases of irritant poison he should certainly expect to find some of them; none of them would be opposed to the hypothesis of poison; still he has no opinion as to what caused these appearances; and yet Dr. Staats professes to be a physician!

But, I must read all the testimony—it is rich.

The court here adjourned till 3 P. M.

AFTERNOON SESSION.

Mr. COLVIN resumed, and read at length the testimony of Dr. Staats.

Gentlemen, continued he, on concluding the testimony, Dr. Staats was brought upon the stand as a medical and chemical witness, and has his evidence changed, in one particle, the testimony we have offered? I answer, no. I say that, taking it all together, it rather sustains us, and that, after all, he strengthens the opinion that she died of poison.

Now we come to the chemical evidence. I submit to you, gentlemen, that if Dr. Salisbury is a man of common ability—if he is a practical chemist—if he has acquired information from the experiments he has made (and I submit to you that he is a young man of extraordinary ability and talent, and has had better opportunities of investigating, and consequently of forming an opinion in regard to the properties and action of aconite than any other man living), then his opinions upon this subject are entitled to overwhelming and crushing weight.

The thoracic and abdominal viscera of the prisoner's wife was submitted to him, as a chemist, to ascertain whether poison was present. After obtaining, by the chemical process which he has fully described to you, a solution to which he finally applied the established tests for aconite, he ascertained that such tests indicated the presence of that poison, and that poison only. He then entered upon a minute analysis of differ-

ent portions of the same viscera; and after obtaining from them a residuum and precipitate, he subjected such residuum and precipitate to his taste, and his taste gave the peculiarly sharp, prickling and numb sensation which belongs to aconite, and, so far as is known, to aconite alone. He then fed this precipitate and residuum to a cat, and their action upon her was the action alone of aconite. Hence, from his tests, analysis, taste and experiment, he swore that the substance which he procured from the viscera of prisoner's wife was aconitine, the poisonous principle of aconite. Since that time he has made various experiments on different animals for the purpose of comparing the results with the phenomena exhibited in the stomach and intestines of prisoner's wife, and those results were in every case identical. Thus, then, he had discovered, beyond all possibility of doubt, the precise poison with which she had been murdered.

Thus you will perceive that our case is again made out, strong as holy writ, by our chemical evidence. Has it been shaken by the evidence on the part of the prisoner? Not at all!

Reid, the "all the way from New-York chemist," attempted to dispute Dr. Salisbury's tests. His cross-examination shows that Dr. Salisbury's tests were correct, and that no other known substance would produce the same colors. Indeed, Reid would have obtained the same result if he had boiled the solution more. This man swears he never saw aconite administered in any form, and cannot say, from what he knows himself, what effect it would have; and yet such a man is called all the way from New-York, as a chemist, to swear to the effects of a poison about which he confessedly knows nothing!

Again, this Reid has been figuring for counsel on the other side, and he has arrived at the sage and remarkable conclusion that there is but half a grain of aconitine in sixteen ounces of the tincture. Now, in one ounce there is four hundred and eighty drops, and, consequently, in sixteen ounces, there are seven thousand six hundred and eighty drops. Now if fifty drops, as Fleming, the opposite counsel's favorite author on aconite, says, will kill one individual, then seven thousand six hundred and eighty drops of tincture, or half a grain of aconitine, will kill three hundred and six persons! and one six hundred and twelfth part of a grain will kill one person! Here is a calculation for you, which shows the perfect nonsense and ignorance of the man.

Again, he says he knows of no way of determining the presence of aconite except by taste; and you will perceive that it was by taste, in connection with his tests and analysis, that Dr. Salisbury determined its presence.

But, with these few remarks, I will leave this Dr. Reid to the tender mercies of the attorney-general, who will attend to him more fully and more ably than I can.

A word or two in regard to Dr. Emmons, the other chemical witness for the defence, and I shall leave him also in the hands of the attorney-general. According to Dr. Emmons, only one 700th part of a grain of aconitine exists in one ounce of tincture; and one pound of tincture, or 16 ounces, contains 16-700ths of a grain of aconitine. This is equal to 1-44th of a grain of aconitine in one pound of tincture; hence one man could drink down, without much danger of losing his life, *one pound of the tincture of aconite!* whereas, it is well established that 50 drops will certainly produce death.

Court here adjourned till 9 o'clock Saturday morning.

EIGHTEENTH DAY.

SATURDAY, July 2.

Court opened at 9 o'clock.

Mr. COLVIN continued his review of the testimony of Dr. Emmons.

Dr. Emmons, although put upon the stand as a chemist, was asked his opinion as to the post mortem appearances of prisoner's wife, and finally answered by saying that there was enough evidence, as discovered by the physicians, to account for death, and that he had never read of a case of death by the poisonous alkaloids where the disturbance in the organs was greater than this; *it is not expected.*

In conclusion of my review of the chemical testimony, and before handing it over to the attorney-general, permit me to call your attention to one thing in regard to which prisoner's counsel made serious complaint, namely, that Dr. Salisbury did not proceed far enough in his analysis to obtain the crystals of aconitine. Now, gentlemen, what will you think of the counsel's honesty and intelligence, when you are informed that the crystal is not obtained, and that aconitine is thought not to be crystallizable!

Counsel here read from the U. S. Dispensatory, p. 1803.

Here again, gentlemen of the jury, might we rest our case upon the chemical evidence. Is it not triumphant? Has it been shaken? Have we not just reason to be proud of James H. Salisbury? Has he not passed through his first public examination, as a chemist, analyzer and experimentalist, with the most distinguished honor? He is

a young man, depend upon it, of extraordinary ability, and if his life be spared, a few years will place him in the very front rank of his profession.

A few words more and I have done. The curtain is fast falling on the scene in which we have played such a conspicuous part. The wife has been ruthlessly murdered, and ushered, without a moment's preparation, into the presence of the Eternal Father, and that too by a husband whom she loved so affectionately, but who was so unworthy of her.

Shall he be permitted to remain behind and reap the anticipated fruits of his horrid deed? That is a question solely for your determination. Let him not escape the doom he so justly merits!

Gentlemen, so far as I am concerned, the case is now in your hands. You have the power to set the prisoner at liberty, and to say that he is innocent of this great crime. But if he goes forth, it will be with the same impression against him as attached to Robinson, the murderer of Ellen Jewett, who had to flee his country, even though acquitted. And so it will be with this man, should your verdict save him from the death which God has pronounced upon the murderer.

MR. COLVIN having closed his remarks, he was followed by MR. WHEATON for the prisoner, as follows:

MR. WHEATON'S ADDRESS.

It becomes my duty, gentlemen of the jury, at this stage of the proceedings, to state to you the views which the prisoner's counsel entertain of the evidence in this cause, and of the comments made on it by the people's counsel.

You have been interested, no doubt, and probably instructed, by the two days' speech made to you by the district attorney to satisfy you that the prisoner at the bar is guilty of murder. One would have supposed, if the case was as clear as he would have you believe, he would not have considered it necessary to have occupied your attention so long in his attempt to prove it.

His speech, in length, is certainly without a parallel here. The longest I have known in a case like this has been from four to six hours, and if it reached the latter point, counsel have always considered it necessary to make some apology for its length.

When the evidence in this case was closed, I reflected upon the time it would probably take me to sum it up, and considered four hours would afford abundant opportunity to say all that was necessary on my side to submit the case fairly to you.

But, gentlemen, the district attorney has gone over so much ground and so minutely, and has made so many misstatements of the evidence, and colored so much the other parts of it, and drawn so many wrong inferences, that I shall have to trespass upon your patience much beyond my original intent.

He has seen fit, for some reason best known to himself, to draw a picture of the death struggles and agony of the prisoner's wife, at the time he supposes she was murdered, which he appears to wish you to take as true, instead of a sketch. How truly horrible! But for what purpose was it drawn? Was it to enable you to examine calmly and dispassionately the evidence in this cause, so as to come to a correct and judicious conclusion? or was it to excite your passions and prejudices, and draw off your minds from a calm consideration of the facts of the case? Why, I ask, was the picture drawn,—a husband witnessing the agonizing torments of his wife, expiring under the burning effects of a poison administered by himself?

Was it honest? Was it fair? Was it becoming a public prosecutor, who is supposed to have but one object in view, which is, to search out the truth? He may think so; he may glory in it, if he thinks reputation is to be acquired by bringing an innocent man to the scaffold. No fair minded man, whose sole object was truth and justice, would be guilty of taking such a course. I envy not the feelings of any man who could take it in a case like this. I have acted as public prosecutor myself, in cases where human life was at stake; and never, so help me God! has there been a moment during those prosecutions when I would not have rejoiced to have had something come out that would have shown the innocence of the accused.

As stated in my opening of this case, I have been astonished at the course pursued by the public prosecutor. Has there been an epithet in the vocabulary of abuse that has not been poured out upon the head of this young man? Has there been one term of reproach and vituperation, which language could supply, that has not been heaped upon him?

Has not the district attorney even called your attention to his conduct during this trial, and while he has been sitting here, day after day, patiently listening to what could be proved and said against him, as evidence that he was fitted to become the murderer of

his wife? May none of you, gentlemen, or of your friends, ever be placed in his situation, to know, from experience, how it is proper to conduct yourselves on such an occasion! Because he has been able to sit here with apparent calmness, and exhibit no unmanly emotion or distress—shed no tears to attract attention and sympathy—has listened to the invectives of counsel without producing in him the expected effects—your attention has been called to his conduct as evidence of his guilt! Is this right? Is it within the line of the duty of the public prosecutor? God knows how much effort it has cost him to sustain this appearance of self-possession and composure under such trying circumstances! God only knows what a struggle it has cost him. Life to the young is dear, the last to be surrendered of Heaven's choicest gifts. To be sure, after we have passed far through it, and have experienced its disappointments, its sorrows and its griefs—when age comes on, with its pains and infirmities—when all the hues and happy colorings of life are past, then there are some among us that are ready to exclaim, in the language of the poet,

“Oh, that to me the wings were given
With which the eagle seeks her nest!
Then would I cleave the vault of heaven,
To flee away and be at rest.”

But, gentlemen, by the young and inexperienced in the vicissitudes of the world, life is precious, above all the other gifts of Heaven. Still, this prisoner has sat here, and heard witness after witness assail that life, and heard counsel, in the bitterest language, declare it to be forfeited to the violated laws of his country, and has made no complaint, and shown no unbecoming feeling. He has borne it all, and been calm. The counsel asks you to condemn him for it. How would he have him act? He has not told us.

The counsel has told you that, if you acquit the prisoner, public opinion, that has already condemned him, will condemn you along with him.

The counsel has also said, “If you acquit, public opinion, which has already condemned him, will condemn you along with him.” Then, gentlemen, you are not to look at the evidence, you are not to be guided by your own judgment, but it is the public who are to decide for you; the public, who have not heard or read all the evidence; the public, who have not sat here day after day for three successive weeks, with the desire you have, to arrive at truth; yet to this public and to their opinion are you called upon to bow. Gentlemen, this public opinion—I should say public prejudice—is a very easy thing to arouse. I believe it is one of the evils transmitted to us from the fall. Start a prejudice in the public mind, and see how one after another will take it up and roll it on; how rapidly it will fly, and how hard it is to be allayed. Always, in a criminal case, from the very nature of the *ex parte* examination before the committing magistrate, and its publication, is there a prejudice against the accused, and it spreads to the four winds of heaven. It is for this reason such caution is used in the selection of a jury, and that such great care is taken in the selection of those who have not read or heard these one-sided statements, and who can step into the box with no opinion either for or against the prisoner.

I think it unfair that counsel did not go further. If he had told you what the medical opinion was; if he had mingled that with this public opinion, and thrown both together in the jury box, I should have been content to abide the result; but this he did not—nor dared he to.

Gentlemen, I have not the health or disposition to follow counsel through all his wanderings. After you have sat here for such a length of time, patiently endeavoring to get at truth, I shall not weary you—I have not the heart to, with a two days' speech. I shall confine myself, almost exclusively, to three or four points upon which this case must turn; and I shall spend my time in endeavoring to group around them all that is important in this case, and shall satisfy you that, when the case is finally submitted to you, you can place your hands upon your hearts, and, judging him as you expect to be judged, say that he is guiltless.

In every case of homicide there are two great points to decide. The first is to show that there is a death, and the second, that it is caused by other than natural means. This last must be proved to a moral certainty—that it was not the act of God, calling home the soul he gave; and also must it be proved that it was not the act of the deceased herself. These being established, you have shown, *prima facie*, murder; and then the law throws it upon the accused to bring down the crime of murder to one of the lesser degrees of homicide. This question, however, will not arise here; for though in many cases where life is taken there are mitigating circumstances, in the deed, as alleged here, there is none—there could be none.

The question here, is, did this young lady die by the hand of God or by violence? If the latter, was it by her own act? and if it was not, on whom can we charge it?

You will see that this is bringing the question down to a very narrow compass, and this, too, notwithstanding we have been here three long weeks, and the recorded testimony weighs pounds.

Now, it is admitted that there is no direct evidence to prove that she did not die a natural death, and that if she did not so die, there is not a particle of direct evidence to show to what it was owing; it all depends on circumstantial evidence, and inference is built on inference.

The counsel rely mainly upon the opinions of their physicians. Now, if I can show you how baseless is all that has been said by these gentlemen who have been so lauded—if I can show you that these opinions are on a sandy basis, have no firm ground to stand upon, that the rock of truth is not beneath them, then I apprehend the whole structure they have raised will tumble down.

The district attorney has pronounced over and over again an eulogy upon Dr. Swinburne, comparing him to Napoleon, and says the latter was but twenty-one years of age when he fought the battle of Marengo! A pretty specimen of history, this! But I will not delay with Napoleon. I wondered, while the counsel was looking for a parallel among great men, he did not think of himself. He also likens Swinburne to Pitt, and says Pitt was but twenty-one when he was prime minister of England! And then, as though to desecrate the name of Washington, he compares Salisbury with the Father of his Country!

Now the counsel has a wonderful imagination. It roams far and wide, and sometimes makes me think of the flight of a dunhill fowl, an awful flapping of wings, but it drops in a mud hole at last! So I thought when he was making these comparisons.

But I will not follow the counsel in *all* his high and low flights.

You would, undoubtedly, gentlemen, desire to be well informed as to the weight that should be attached to the evidence I alluded to a while ago, I mean circumstantial evidence.

In my opinion, gentlemen, it is the most dangerous kind of evidence, unless it be weighed with the utmost care, and you watch the impression it makes on your minds to see to it that no circumstance has an undue weight.

Let me call your attention to some rules which experience has derived, for the purpose of preventing a jury from being imposed upon, or imposing upon themselves, by reason of circumstantial evidence.

The first rule I wish you to understand is, that before you can draw any safe inferences from a circumstance given in evidence, you must be entirely satisfied of its truth. You must be sure the fact exists.

(Here the counsel read, from Starkie on Evidence, his authority for the rule.)

Let me illustrate. It is sought to prove that the prisoner treated his wife badly, in order to lay the foundation for an inference that he might become her murderer. Now you see, before you could draw such an inference from that fact, or any inference, you must be sure the fact exists. While you have doubts of its existence, you must put it entirely out of the question, and dismiss it from your minds as much as if no proof had been given in relation to it. You see, this is a rule of common sense, as well as of law. If it is disregarded, no man is safe. You should be as sure of the truth of each particular fact proved, as a foundation for an inference of guilt, before you draw any inference from it or take it into your minds for use, as you are required to be of the ultimate fact of guilt before you pronounce your verdict of guilty. The great danger is, in the use of this species of evidence, that the jury will draw conclusions from facts and circumstances not fully proved. To illustrate: Take the evidence as it stands upon the question as to whether the prisoner is the person who bought the aconite of Dr. Burroughs.

Is it proved he was the man? No. The evidence shows he may be the man; and, we may go farther, and say, it is probable he is the man; nay, farther, is very probable. But, what then? What safe inference can you draw from it? What conclusion can you build upon such a foundation? None. It should be dismissed from your minds. You should forget that any attempt has been made to prove the fact, since the evidence leaves it in doubt.

There is another rule, gentlemen, which, in investigating a case upon circumstantial evidence, is extremely important to observe; it is this, that the circumstances proved should, in the first place, all tend to prove the fact of guilt. But that is not enough; they must be so conclusive, in their tendency to prove the fact of guilt, that they cannot be explained or accounted for, in the aggregate, upon any other conceivable supposition than the existence of the guilt. While human ingenuity can account for them without involving, necessarily, the existence of guilt, guilt is not proved. They must not only tend to prove the fact of guilt, but be totally unexplainable without the existence of that fact; then guilt is proved, and not till then.

To illustrate: One important fact to be proved is, that the deceased vomited before death. No one saw or heard her vomit. Dr. Swinburne has sworn she did vomit. How does he know? He infers it from what he saw on a post mortem examination

of her stomach and viscera. He has described what he saw. Now, if those appearances, which he has described, could not exist without her having vomited, then the fact of her having vomited is proved—not otherwise. But, when I come to that part of the case, I shall satisfy you that all those appearances can be accounted for without involving the necessity of her having vomited. I shall, therefore, contend there is no proof she vomited.

And this accounts for us not calling Drs. March and Hun and others. We knew there was great doubt about this, and we knew we had no need to call them. Why did not the district attorney call some of the distinguished physicians of the city to sustain Dr. Swinburne, if he believed his opinions to be true? Why were they not brought here to sustain him? No! he is left standing *alone*, with his positive oath in a matter of life and death; and we are taunted by the district attorney because we have brought but *two* well known and distinguished men to contradict and refute him; brought them to contradict this unflinching advocate of his own opinion. God save me from such unflinchingness! I envy no man who, in a case like this, can step on to that stand and be so unflinching; who can proclaim positively his own opinion, where older and wiser men would hesitate, and that too even though life be in the scale! I envy not the man.

All we have to prove is that other causes will produce all these appearances; *they* must prove that poison *alone* will.

And the counsel says he is looking for truth; he brings one witness on the stand, and we bring two who refute him, and he abuses us for not having brought more. This is seeking for truth; the counsel has a strange way of doing so; it is like hunting for victory, irrespective of truth.

Now, as to the degree of proof: The law in its humanity has made a distinction between civil and criminal cases; in civil cases, preponderance of evidence turns the scale; in criminal cases, full proof, to the *exclusion of every doubt*; and what constitutes a doubt I freely leave you to decide.

I would call your attention to another rule. A good deal of this evidence consists of conversations; some of it has undoubtedly made an impression upon you; this is natural, but when you come to weigh life against it, is it entitled to consideration? has it been reported correctly in all cases? were the conversations correctly remembered? has any important word or remark or circumstance attending them been forgotten? has any coloring been given to it? All these questions and others will occur to you in attaching importance to this very uncertain kind of evidence. This is the most uncertain and dangerous kind of evidence; and the remark applies especially to the testimony of the witness, Mrs. Van Dusen.

When I speak of Mrs. Van Dusen, I shall show you how loose is her testimony in this respect; much of it is devoted to conversations and remarks between prisoner and his wife. In regard to this woman, I at one time felt sadly for her; I believed she dearly loved her daughter; I sympathized with her in the loss of that daughter; but having seen her here day by day, prowling around this room, sitting behind the jury, and talking there in their hearing—so that I had actually to send a constable to remove her to the other side of the room—when I have seen her whispering with counsel and sitting in front of you, that she might excite your sympathy or affect your decision, I believe she comes here to hang her son-in-law, and gratify a feeling which she had against him before his wife's death; and I have not the feeling or sympathy I once had. All I wish her is, that she may never lose another daughter, or seek to follow another son-in-law to the grave.

I have now, gentlemen of the jury, gone through the rules applicable to this case; they are the instruments with which you will work into the mass of testimony, and dig out and select the gold from the dross.

You will not, I trust, expect me to get through with my remarks to-day; were you a jury of physicians, I would not talk to you fifteen minutes; but you are not, and from the course the district attorney has pursued, it will be necessary that I should extend my remarks beyond my original intention.

The prosecution case rests on two points, sustained as they think by two witnesses, one a physician and the other a chemist, who both give their opinions; on Dr. Salisbury's testimony do they mainly rely, and I think I can prove to you, beyond all doubt, that his testimony has furnished no reliable proof at all that poison was found in the system of the deceased.

And I state here, openly state, that if Dr. Salisbury did find from the 20th to the 25th of a grain of aconitine in the part of her system submitted to him for examination, he can swear that prisoner's wife died of poison, and that poison aconitine, as safely and truly as he could swear to the cause of death, if he had found a dagger in her heart. I say this openly, and I admit it freely, and I wish you to remember it, gentlemen.

I am not, however, going into this part of the case yet. I think I had better track the learned counsel—follow him as he goes along. I shall not follow him in a lock step,

however. I should tire to death and tire you, but still I shall pass over all his ground, and think you will say I have done it expeditiously.

The public prosecutor has an important duty to perform in this case. If a murder has been committed, it is his duty to follow it up fearlessly and faithfully. It is his duty to seek for and produce the evidences of guilt; to state them fairly and impartially; and, if he is in the right, the sword of justice should fall. It is not his duty, nor is it expected that he should go beyond this.

But with regard to the position I occupy, it is different. This prisoner has trusted his life in my charge. He expects to be faithfully defended; not only that his evidence should be introduced before you, but that every legitimate use should be made of it, and that no pains should be spared, which human ingenuity can devise, to produce a favorable impression upon your minds; not, however, to call upon you to exercise your sympathies in his favor after you shall have become satisfied of his guilt, if that point shall ever be reached, but that, in weighing the evidence and drawing your inferences, you should proceed with caution, giving a charitable and kind construction to what weighs against him, and receiving, with force, whatever tends to prove his innocence. I ask for no sympathy, if he is guilty. If he is a murderer, he is the most atrocious of murderers. If he has willfully and deliberately taken the life of that young, fond and confiding wife, the depth of his depravity is immeasurable. The human mind is incapable of forming a conception of it. If there be a deep below the lowest deep, to that depth should he sink.

But, gentlemen, the very enormity of the crime should make us hesitate in coming to the conclusion he is guilty. Men do not commit such atrocious crimes without motive. What motive has been found that he could have had to commit such a crime? But I forbear to pursue this train of thought further at present. All I ask of you is to judge him kindly and wisely, exercising in forming your judgment the sympathies of the heart upon the stern dictates of the head.

Having said this much, having attempted to remove prejudices that were sought to be impressed upon your minds, and having pointed out the tools you are to work with in the search after truth, I will now call your attention to the detailed facts of the case as near as possible in their chronological order.

The first thing we hear of the prisoner is his going to Springstead's drug store and inquiring for prussic acid. What did he want with it? Counsel says he had then made up his mind to murder his wife, and selected this to do it with; but how did he find out the nature of prussic acid? Ah! he either got it from books or men! Now, let me imitate the district attorney, in the great stroke he made in his speech, where he called out for the man who bought aconite, in the "blue coat and plush cap," to come forward! and I exclaim, "If anybody has told the prisoner about prussic acid, let anybody come forward!"—no answer! well the man don't come forward, and of course the prisoner was never told anything about prussic acid.

Well, says the counsel, he has made up his mind to the murder. Now where does he go to get the poison? to New-York? Prussic acid is not often inquired for; it is never bought without attention being excited. Where does he go for it? He goes to a man who is an old friend to get it, and that too when he intends murdering his wife! Now, had he wanted it for this purpose, there would have been some trembling of his voice, some suspicious movement which would have been noticed; yet Springstead says there was none. And all this matter about prussic acid is accounted for by his sister having asked him to get her some muriatic acid for her teeth. But here counsel call their *factotum*, their man to fill up the chinks, to prove it can't be so, and that muriatic acid is not used for the teeth; but we produce Dr. Staats to show that it is extensively so used. Counsel, however, says that Dr. Staats knows nothing—a man who has practiced 35 years extensively, who is of high repute and esteem, and who has repeatedly been honored by his fellow citizens with marks of their highest confidence! Now the prisoner did not get the prussic acid, and it is all explained by having forgotten his sister's message, and asked for prussic instead of muriatic acid. And these are the facts about it, notwithstanding the wish of the district attorney that you should not believe Maria, the sister. But he had forgotten she was his own witness, and that he had no right to discredit her. You saw this young lady on the stand, testifying in a case where her brother's life was at stake; she does feel for his condition; I claim not for her indifference, but I do claim for her that she fully appreciated the responsibility of her oath, and what she said was truth. I had attributed to the district attorney some humanity; but when I saw him abuse that young lady, while giving her testimony, I changed my mind, and found I had given him more credit than he deserved.

But let us proceed. The prisoner not finding the acid at Springstead's, goes out, according to their story, walks sixty rods up the street, and, going into Burroughs', asks for aconite!—a poison not known before this trial to any part of the community, save a few scientific men! Where did he get his knowledge of this poison? Why, gentlemen, I have searched the annals of murder, and can find but two cases

recorded of its use. Where did this boy—"boy," as the district attorney says the "venerable counsel calls him,"—where did he acquire his knowledge of it, and how came he to change his mind, in walking sixty rods, in his intention to commit murder by aconite instead of prussic acid? Did he meet any one in that distance to tell him the former was the surest, safest and deadliest? Is not this incredible?

But we now have him, having made up his mind to the murder, in the store purchasing aconite. And what does Burroughs say? Why, in speaking of his size, he says the man was about his size. I made prisoner stand up, and I noticed the impression made on all present; the district attorney felt it; you felt it. Then, is the prisoner the man Burroughs described? You saw Mr. B. upon the stand. Now I profess no great skill in examining a witness; but after having examined him, I became satisfied, from his manner and appearance, that little confidence was to be placed in his testimony as to his identification of the prisoner as the man who bought the aconite. When he saw the coat and cap, which belonged to prisoner, here, he was very positive; when before the Esquire he could swear to nothing at all about the cap. He has undoubtedly been talked to, has been to the district attorney's office, has had his feelings worked upon; and what reliance can you place on his testimony? Then, again, you find no memorandum made in the sales book of this sale of aconite; an unusual thing to sell, and a strange omission, excused by the paltry apology that he was writing up an inventory!

But I want you to recall how he looked upon the stand, and how he left,—making a straight line to the door, and disappearing. But this has been a good thing for him; he has sold his aconite sixpence worth after sixpence worth. Dr. Salisbury has bought his there; and Dr. Emmons has bought his there, also. It has gone and will go out as an advertisement, that Burroughs keeps the best of aconite for men to murder their wives with,

But the district attorney roared out at this point in his case, in a voice that would have done honor to an Andalusian fighting bull, "Where is the man with the blue coat and plush cap who bought the aconite at Burroughs' store?" and calls upon him to come forward and save the prisoner's life. He didn't come; and therefore, he concludes, the prisoner must be the man! This would have been a good scene in a farce, and the counsel could have acted it admirably; it would have "drawn," as the actors say, and was a capital scene. If I felt a desire to write a play, I would incorporate this in it, and make the learned district attorney the principal character.

We are not very solemn just now, gentlemen, but we cannot be sad always. Laughing does us good at times, and even here a smile may be permitted.

But to return. As to the size, Burroughs could not have mistook it. He says the man came in and held his head a little down, as if looking at things on the counter. How much would this reduce his height? He says he held his head down, so that he could not get a full view of his face. Now this cap, which he swears to, has no rim, and I will put it on, and hold my head a "little down," and see if you cannot see all my face. Burroughs also says his face was red, as though exposed to the sun, and tanned; and also says he does not see any difference in complexion between that man and the prisoner, though the latter has been bleaching for months in jail!

It does seem to me that no inference whatsoever can be drawn from this testimony. By the rules I have shown you, is it established that the prisoner is the man who bought the aconite of Burroughs, so that you would be willing to risk your life upon it? What does it amount to, this calling of "the man who bought aconite," by the district attorney? How many have read this voluminous testimony through, and how many have read only a portion of it, and not seen that containing the description at all? He may have gone off, may have left for California, for all we know or can discover. The counsel has made a great handle of this. Does his not answering the call exclude the idea that it was another man than the prisoner? Most absurd!

What next in order? We hear nothing of the prisoner now until the death of his wife. She died suddenly in bed; she died by his side; they went to sleep about eleven; he woke up about two, and he found her dead. All this is true.

But the counsel has spoken of the conduct of the prisoner. Now, how many cases have occurred of persons in full health going to bed, and, on their friends going into their room in the morning, being found dead, stretched out, stiff and cold, without a particle of change or disturbance being noticeable, or an appearance of any struggle?

But, says counsel, "How did he act?" Why did he not, on finding her dead, jump up and bring a candle himself, instead of calling for it? Gentlemen, how would you have acted under such circumstances yourselves? Can you tell? can any of us tell? can the counsel himself say? You, to wake up, find yourself crowded, ask your wife by your side to move—no answer; ask her again, still no answer; you put your hand over, and, placing it on her face, find it cold! She is dead; dead! How, I ask you, would you act? Would you get up and go for a light? Would you not be unnerved, paralyzed? Would you not cry out for assistance? What would you do? Who can

tell? Let the prisoner have acted as he would, it would not have been right in the eyes of one who is determined to accuse.

If he was a murderer, why did not he wait till morning? Why arouse the family at this time? But no! He puts his hand on to her forehead; he finds it cold, and finds she is dead, and he cries for assistance!

But, says counsel again, he exhibited no grief; he did not cry aloud. Had he done so; had he, when the Meads came, exhibited these great emotions of grief, this would have been considered, and used against him too, as evidence of his guilt.

Had he wept, his tears would have been called crocodile tears. Had he grieved aloud, it would have been affected grief, got up for the occasion, and to attract attention, and affording a certain inference of guilt.

But what was his conduct? Was he, when Meads came, doing anything to attract attention? He was sitting at the head of the bed, his face buried in his hands, not obtruding his grief upon any one. Was all this not natural? Was it not as a man would act? Oh! but says counsel, he sat too long in the bed! What for? Why, to assist his mother in her endeavors to administer restoratives to his wife, and when he got out of bed, his sisters took his place for the same purpose. Now is not this strange?

Counsel further says that up stairs he gave no account about his wife's death, and only exclaimed, "Maria! Maria!" and that when he went down stairs, he went into the room where she was laid out, and, putting his hand on her brow, said, "Oh! that she was alive again!" In God's name, what should he have said? What done?

The deepest grief, gentlemen, is not the loudest. It exhibits itself in no noisy emotions. Deep grief sheds no tears. It is linked with, buried in the heart.

Now, the prisoner's conversation with his brother-in-law, Van Dusen, is harped on by the district attorney. Let us look at it. Remember that the prisoner was examined the night before this conversation occurred. Remember that on this examination he was asked if he had, within a certain period, visited a drug store in Albany, and this before a coroner's jury, who were investigating as to the cause of the death of a wife who had died by his side. Now, what would he have thought from this question, what must he have expected was its purpose and meaning? The next day he sees his brother-in-law. They meet subsequently in the wood shed; a post mortem examination of his wife is going on in the house; he asks his brother-in-law to go in and see what they are doing, and ask them if Dr. Springsteed, his wife's physician, might not be sent for. This, the physicians say, they have no objections to, but at the same time continue their examinations. The brother-in-law returns and tells him what they are doing, and with the question of the last night still before him, "Were you in a drug store?" he says, "One thing I do know, they will not find arsenic." Why, gentlemen, was this not natural? Arsenic is the only poison much known in the country. "They have suspicion of my killing my wife, and one thing I do know, they will not find poison." Is it not natural? And in God's name, what weight will the expression, so harped upon, have with you?

And after this he walked out to the barn with his brother-in-law. He walked along quietly and composedly, while he knew they were yet in the house seeking to identify him with the murder of his wife. Does this look like guilt? Counsel say he exhibited no feeling, because he pointed out to Stephen the property which had belonged to his wife; I think his pointing out these things which she had owned indicated that he had feeling. Why, what is it we cherish? The things that belonged to one's lost friends. The husband cherishes the ring worn upon the finger of his wife; he heeds the mementos that are left of her. Man weeps, too, without breaking his heart; and grief is sometimes pleasant, when we weep for those we love.

The next feature the district attorney relies upon is prisoner's examination on oath, taken before the coroner. This has been admitted as part of the testimony in this cause; I had supposed that such evidence could not have been admitted. What would you think of it, had he been called on the stand here and questioned regarding his guilt? The jury assembled Monday night—the night after her death—and if what one of the witnesses says is true, rumors were afloat of prisoner having poisoned her. He is put on the stand; Swinburne, who took minutes of these proceedings, says he hesitated about saying when he was in the city; first he said two weeks ago, then a week ago, and then that he had been in there the last Saturday. He was asked if he had been in a drug store, and he is said to have "started up." Swinburne says so. We will take it as it reads, and what of it? Suppose your wife had died suddenly, a coroner's jury was assembled to inquire into the cause of her death, and you were put on the stand, and asked when you were in the city, and the question followed up with the question "Were you in a drug store there," would you not have started? There are suspicious circumstances against you, and they ask you, in effect, if you murdered your wife! Who would not start at it? Who can measure by a rule, under such circumstances, his acts? A man to have lost his wife by a sudden death, and while she was lying beside him, would feel bad enough; but this suspicion that he was her murderer would be thrusting the iron to the very soul. And while I bow to the decision

which has admitted this evidence, I still think that it should not have been brought in here, being opposed to the principle that no man should be compelled to testify against himself.

Now, as to the evidence of the mother-in-law, in regard to what took place between prisoner and his wife. A part of this would undoubtedly be proper evidence, bearing upon the question of who the murderer was, having first proved she was murdered.

Gentlemen, I did *suppose*—for I am not quite so infallible as the engorged witnesses of the prosecution are, even though I be “venerable,” as the learned district attorney has been pleased to call me—I did suppose that all doubts, in regard to prisoner’s kindness to and affection for his wife, were removed, until I heard the two days’ speech of counsel. The only evidence against the fact is the evidence of the mother-in-law. For most of the time since his marriage prisoner and his wife resided with his father and mother, and ate at the same board, and slept under the same roof; the family have seen them in all their moods and under all circumstances, and they come on to the stand and cannot swear to having seen one act, or heard one word, other than that of love and kindness. We have gone among the neighbors who lived around them—those who have known them well and long—and have they seen one single thing, one single act, calculated to show that he entertained for her other than the strongest affection? It was for this reason—that we knew no witness, save Mrs. Van Dusen, could be found who could swear otherwise—that I made the offer to the district attorney that if he could find any living being who had heard an unkind word, or seen an unkind act, pass between the prisoner and his wife, I would send for such witness, and he might have the right to examine him or her. He could not name one—not one! And, gentlemen of the jury, there is nothing, save Mrs. Van Dusen’s testimony, and a single expression furnished in Hungerford’s testimony, which will go to prove a single act between prisoner and his wife which was not characterized by love and affection.

What was this expression, spoken by Hungerford? It appears that he (H.) had a conversation with prisoner, in the course of which prisoner expressed dissatisfaction towards Lawrence Van Dusen, his brother-in-law, in consequence of his interference with him in some matter regarding the farm. A lawsuit was also spoken of between this Lawrence and a Mr. Slauson, of this city, and Hungerford said that his wife was to be a witness, and asked if Maria, prisoner’s wife, was to be one. Prisoner, while laboring under the smart received from his brother-in-law, Lawrence, made use of the expression, “If she does, I’ll break her d—d neck.” Now this was a wrong, a foolish, and an impatient expression, just such as a man angered, from wrongs and injuries received, might make use of, and cannot, in any fairness, in any candor or justice, be made use of as an evidence of unkindness on the part of the prisoner towards his wife. Would not this be attaching an importance to a hasty, careless remark, which is wholly undeserved, and to a remark which was indicative of prisoner’s feelings towards his brother-in-law, and *not* against his wife?

But, I will now come to the old lady, Mrs. Van Dusen. And in her testimony, *if it is true*, you will see that prisoner’s wife abused him most foully, charging him with thieving and gambling, with stealing buffalo robes, stealing whips, and even, I believe, she, according to this testimony, charged him with stealing a bottle of liquor. Now, gentlemen of the jury, was it fair to introduce such testimony as this? What bearing does it have upon the case? Does that young man, as he has sat there, day after day, does that young man look like a gambler, a thief, prowling around and committing these petty kind of larcenies? Is it probable, connected, as he is, with one of the best families in our county, that such could be the case? They have introduced this testimony in such a way that we cannot meet it; they have given us no opportunity to do so. They have, however, got out of this old lady the fact that his wife thus grossly abused the prisoner; that she thus foully charged him! Now, who believes this? Is it true that this kind and lovely woman heaped all these charges of crime upon his head? No, gentlemen, it is not true that she ever did. Does any one else swear to her having ever uttered an unkind word towards him? Not one! And, then, is that woman to be believed? Who ever heard or thought of his being a thief but Mrs. Van Dusen? Ah! gentlemen, start but one story against a man situated as is the prisoner, and you will find a thousand following. Here was it even said, since the prisoner has been arraigned, that while he was at Corning he had had a conversation with an old man, who had told him that there was a powerful root, which would kill quickly, surely and safely; and it was said that from this old man he learned that root was aconite! But, gentlemen, where is that old man? Where is he? Let the counsel call him, with that stentorian voice of his, as he did the man who bought the aconite of Burroughs, and see whether he will answer.

Now, in regard to the old lady, Mrs. Van Dusen, I do not feel towards her as I did when I opened the defence. I had not seen her then, prowling around here, and seeking to take her son-in-law’s life. How did she come on the stand? With what solemnity did she act? You saw how she answered my questions; how, whenever

she could, it was done as though she wished to joke; how she would talk and talk, and how she could not conceal the ill-will she felt towards the prisoner. I saw it was her cue, and let her go on, and say all she had to say; and now I will let it go at your estimate of its worth.

If the prisoner gave his wife the disorder they speak of, although I do not intend, in any way to excuse it, yet has it any bearing in this case? Did he, do you believe, do it knowingly? Did he do it to injure or destroy her? It undoubtedly has had an effect upon your minds; but it was explained and excused to her by him; he undoubtedly thought he had been cured of it, but, unfortunately, was not. He stated to her that it was caused by his falling on the cars; but she knew enough, it appears, to know that it could have never been communicated in that way; and, although it did create sadness on her part, yet, excusing it to her so far as he could, it seems to have been passed over, she had forgiven him; it was forgotten altogether, and they lived as kindly and happily as though it had never occurred; and it yet would have remained forgotten, had not it been for the mother-in-law, who revives it now to blacken his character in this the hour of his utmost need.

Gentlemen, I do not believe that the expressions testified to by the mother-in-law were ever used by her daughter, or that any such unkindness existed between prisoner and his wife. If such were the case, why did they not produce Lawrence Van Dusen, her brother, between whom and the prisoner existed unkind feelings, and who had often seen him and his wife together, and, if these things were so, could so readily have testified to them?

The counsel for the prosecution say that they have proved lack of affection on the part of prisoner towards his wife, and tell you that this is one evidence of the inducements to murder her. Now, has not this been wholly and entirely unsustained and disproved, and is it not entirely out of the case? I think it is.

This old lady tells you of a conversation had between the prisoner and his wife, wherein he asked her if he should bring her some medicine; and she said "no," that at one time he had brought her poison. On her direct examination Mrs. Van Dusen gave one account of it, and on her cross-examination another. (Counsel here read the examination of Mrs. Van Dusen, as published.) Now I asked the old lady if medicine was not very frequently called "poison," in the country, and she said it was. Gentlemen, do you believe, for one moment, that if the mother believed her daughter's husband had attempted to poison her, she would have allowed him to have returned to her roof? or, if it was believed that he had ever intended to murder her, the most devoted wife would ever have remained with him? Yet she went immediately off with him, and without the mother objecting! Did she ever speak of it before she was a witness in this case to any living being? Is it not evident to you that, by what she called poison, she meant some kind of medicine she was opposed to taking? It made no impression at the time the scene occurred, nor was it remembered since, until the witness was on the stand. Is it fully proved she meant to charge him with having attempted to poison her? If not, no inference can be drawn from it, and it should be dismissed from your minds.

Gentlemen, I have now passed over what the counsel calls his moral evidence, to prove that this woman was murdered, and her husband was her murderer.

They are looking out for inducements for him to murder his wife. They start by saying he married her not for affection, but expectation; that, when Mr. Van Dusen died, he divided his property, subject to the life-estate of his widow, between his son and two daughters, so that the prisoner's wife would, on the death of the mother, get one quarter of the property. But, gentlemen, if the wife had lived he would have enjoyed it, and by murdering her he loses it all. And this is the argument of the counsel—he married his wife for her property; he killed her to prevent himself from enjoying it!

There is one thing which this old woman swears to which must be false; it must be false, gentlemen; and that is where she says her daughter remarked, on going away one time, that she had not yet "got her blessing." The old lady says that she said, by "blessing," she meant the curses "John" gave her every day. Now, who of all these witnesses testify to an oath he ever used towards her? who, of all these? While, on the contrary, nothing but kindness, acts of care for her health, watchfulness and tender care, have been sworn to on that stand. And this is the husband who intended to murder, and who so deliberately prepared the instruments, and carried into execution the design!

Gentlemen, I have now done with this part of the case. So far as I am concerned, I thank you kindly for your attention, and beg, during the recess, an examination of the facts which have been presented. So far as regards the testimony of Mrs. Van Dusen, it will shrivel up, it will not stand the light; the more we look at it the more it wilts, and loses all character or weight whatever.

I ask you, gentlemen, to ponder carefully upon the portions of the case passed over in the language of the counsel opposed: "I ask not for your sympathies, if the pris-

over be guilty. If he be guilty, he deserves no mercy. But it is in weighing the testimony, considering the case, and coming to your conclusion, that I ask the exercise of your kindly feelings. The quality of mercy is not strained; it falleth like the gentle rain from heaven upon the place beneath. It becometh the throned monarch better than his sceptre or his crown."

Adjourned till Monday morning, at ten o'clock.

NINETEENTH DAY.

MONDAY, *July 4.*

Court met as usual, but in consequence of the anniversary, adjourned till to morrow at 9 A. M.

TWENTIETH DAY.

TUESDAY, *July 5.*

MR. WHEATON resumed:

Gentlemen, before the adjournment of the court, on Saturday, I commented briefly on what was called the moral testimony in this case; on the probable motives there could have been for the act, and the probabilities that the prisoner had committed the crime, if crime has been committed. Two or three points I did not touch upon. I did not think them of sufficient importance to be specially noticed. But at the request of the prisoner's friends, who, of course, feel the deepest interest here, I shall briefly do so now.

In order to show an attachment on the part of the prisoner to another woman than his wife, and that he was anxious to form a connection with her, the matter of Maria Schoonmaker was brought up and enlarged upon. But you well recollect that when she was called upon the stand the court refused to let her examination, in regard to those matters, be proceeded with, so little had it to do with this case. So the prosecuting counsel had to get it out in another way, through the old lady (Mrs. Van Dusen) by means of a conversation related between prisoner and his wife.

From this it appeared that in the fall of 1852, the prisoner was required by his wife to go to town for a physician, she being ill, and to do so as soon as possible. The mother says that her daughter thought herself dangerously ill; but the disease from which she was suffering never produces death, and is not known ever to prove fatal. Well, this old lady says her daughter was frightened about herself, and sent him off, and he went away Saturday, and did not get back until Monday morning; and this is to show how indifferent he was towards her.

But, gentlemen, the most this evidence tends to prove is indifference towards her, not malice, not ill-will, not a disposition to injure her. Before any inference can be drawn against him on this evidence, they must prove dislike, hatred, malice, threats, something inducing a belief he was disposed to do her a personal injury.

The old woman goes on to say that a conversation subsequently took place between prisoner and his wife, in which she charged him with giving his ring and daguerreotype to Miss Schoonmaker, and also with having been with her the Saturday night that he did not return immediately, when sent for a physician; and that he informed her that the reason he did not return on that night was because of an engagement he had with Maria; that he did visit her then, and sat up till a late hour with her. These matters were introduced to further show a lack of affection on the part of prisoner towards his wife, as inducements to commit the deed of murder, and they do appear so trivial to me, that I hardly thought them worth attention; and from the way the old lady answered me on cross-examination, it is evident she knew there was no truth in it; that it amounted to nothing. And it turns out that there was no truth in it, not one word of truth; for the prisoner had not visited Miss Schoonmaker since his marriage, as was proved by the mother, the father and the daughter, who were on that stand and testified to it. Now did counsel endeavor to prove it? The district attorney made the allegation in his opening; he brought Miss Schoonmaker here as a witness, he asks her only so far as he feels sure she can testify in his favor, and attempts to prevent her going a step further lest she may say something favorable to the prisoner; is this fair, manly, or honest? Further, as to the matter of this ring and daguerreotype, what was in it, any more than might have occurred to any one? If any gentleman goes to a ball, even if married, it is customary, right and proper, that ladies present should receive some attention from him; that he should chat with them, and walk with them, and sit down beside them; it is a duty of every gentleman to make himself as pleasant to them as may be, and not go there and stand like a stick, saying nothing. Well, prisoner sits along side of Miss Schoonmaker; she sees his daguerreotype, and says, "It is very natural," and

takes it; they get up, and after the next dance is over meet again; he sees a ring on her finger, and says, that looks "very natural," and asks for it, and she says she will give it to him if he will let her take his, and the exchange is made. It is all done, as she says, in a joke, was so considered by both of them, and nothing more. Subsequently the wife hears of it and upbraids him with having done it. He is sorry for it, and promises to get them back, which he does as soon as he can.

Now does all this show any attachment for Miss Schoonmaker, any intention or desire to marry her? Does it furnish any inducements why he should get rid of his wife to marry her? Even were he as free from matrimonial bonds as any bachelor in the land, could any intentions have been inferred from this? To such shifts are the prosecution driven for reasons why prisoner was induced to commit the alleged crime!

But why, says counsel, why was not a physician sent for, when they found her dead? "why did he not send for a physician?" cries out the district attorney, in his splendid voice, which reverberated through this room like a little cracked thunder. He wakes up, gives the alarm, the family hasten to the room, they did not think of physicians, they at once apply the restoratives, attempt to give her camphor, rub her and bathe her; they do it with hope, but they do it in vain,—she is dead, gone beyond the physician's skill, and then they send for the neighbors. And yet, exclaims the district attorney, why was not a physician sent for? and he says the course pursued towards her was such as you would not take with your horse!

To such weak devices are counsel often driven, who are struggling for victory, and not truth.

They have referred to the conversation the prisoner had with Mr. Aley, when he was arrested, and whom he asked if they had found any poison. Now, is there anything unnatural in his having done this? He was arrested on the charge of having poisoned her; he knew physicians had made an examination with a view to finding the cause of her death; and what other question would he have asked? What other question would, under these circumstances, have suggested itself? In God's name, what inference does the counsel wish you to draw from this, if he is honest—if he is looking only for the truth? Let me ask you, again, when he is arrested for poisoning his wife, what more natural question would have arisen to him? And can it be that counsel ask you to infer from this that he did poison her?

Now as to another fact, which, had it been established, would have been important, and that is in regard to the light seen by Wendell Oliver. They undertook to say that it was seen in prisoner's room at the time they allege he was consummating the deed. Now Wendell Oliver could not swear if the light was above or below, was seen in one window or two,—could not swear as to anything about it. It was a late hour, he was driving rapidly, and could only, from the situation of the house, have seen, it from the turn in the road, but a moment. So much for any reliance to be attached to the matter of seeing the light. Now as to the time, if seen at all, that it was seen. You observed what a fuss was made by the district attorney with this witness; how he was charged with having sworn differently before Cole, how he was asked if he had been in my office, and you heard his answer, that not a word had been said to him in regard to this suit.

But the chief point here is as to the time light was seen by Wendell, if seen at all. Now, after the family were aroused there was light in the room, undoubtedly, and this accounted for; but counsel contend that it was when prisoner was engaged in the act of murder. Now, what are the facts? According to Miss Haswell, whom Oliver had been visiting that night, she heard her father's clock strike two, and says that Oliver remained there some ten or twenty minutes after that. Young ladies are apt to watch the time closely when employed as pleasantly as she was; it flies all too fast for them; they would like to stop it if they could, and there is no probability that she did not hear the hour struck, correctly. Mrs. Haswell also says she heard it strike two, before he left; and then we have Mr. Haswell who swears that his clock was in good order and kept correct time; and then, on getting home, and while going up stairs, Oliver hears his father's clock strike three. Now, put that and that together, and it proves beyond all doubt that, when he passed the house, it was after two o'clock, and that the light, if seen at all up stairs, was when the family were aroused.

There is no substance in them. That we are able to dispose so successfully of all these circumstances, that first aroused suspicion against the prisoner, goes far to satisfy the mind of his innocence. We, that believe in an overruling Providence, that "there is a Divinity that shapes our ends, rough-hew them as we will," regard such fortunate turns to the testimony as indicative of a happy termination to the trial—that it will end in an honorable acquittal of the prisoner.

But let us now look at this pretty Miss Bailey. Though I do not undertake to justify this young man, yet I believe that this girl was more to blame than he was, and that she was the seducer. It appears that he stopped at this tavern in Schoharie; he had no previous acquaintance with her, and the first time they met she said "Good morning," and he said "Good morning." This was all, this time. In the evening they

went into the room together, and were together till an early hour next morning. We have no proof that anything was done wrong there, except his engaging to marry her. There was no pretence that there was. Now is it possible that it was more than what might occur to any young man? I can believe that he loved his wife then as fondly as he did when first he plighted his faith to her. The counsel may not, but I can. Now it must be proved that he loved this woman, that he was in earnest when he engaged himself to her, was attached to her more than to his wife, before you can draw any inference from it prejudicial to the prisoner in this case. It is proved to show the prisoner had a motive for murdering his wife, and for no other purpose.

He was a young man, full of life, and vigor and blood. He had not reached that age when we have our passions under our control. He was married, too, ere he was twenty years of age, and he had not passed that eventful period in one's life when one's character is formed.

Remember, you were once young yourselves. Recall to mind your many wild and thoughtless acts, done heedlessly, but without any intent to injure, or malice toward any one. And remember, too, the words of our Saviour in a not very dissimilar case, when the accused stood trembling in the presence of an excited multitude, "Let him that is without sin among you cast at her the first stone," and no stone was thrown.

And now, gentlemen, all these efforts to prove inducements which would have led prisoner to murder his wife have failed, and he has been shown affectionate and attached towards her. Where do you find any motive whatever? In all cases of murder of a wife by a husband, that I know of, it has been shown that there was an attachment for or an intention to marry another woman. This was so in the case of Green, which the district attorney cited; but nothing of the kind has been shown to exist in this case. I showed you on Saturday that pecuniary motives could not have existed, because by her death he has been deprived of the enjoyment of a handsome estate, which, had she lived, would in due course of time come to her, and he would have been the recipient with her.

Show me the motive, then; give me the reason for committing this enormous crime! Does this supposed indifference, which they pretend to have proved, but failed to, furnish any plausible reason why he should have murdered her? Are deeds as dark as these done because of mere indifference? No, gentlemen, believe me, men do not commit such crimes as this without a motive. The most indifferent act is not done without a motive. What, then, shall we say or think of such an act as this?

But let me here dispose of that celebrated night gown, around which I believe there is such an assemblage of fraud. It was brought here into court, had been before the grand jury, but why did not counsel exhibit to you before? Why was it raked up at the very end of this trial, when our witnesses were gone? But no, it comes here at the last stage; and this woman, who swears that her son-in-law was so affectionate to his wife that she thought him hypocritical, is called on to the stand to swear to it and the spots upon it. This old woman knows more about those spots, and the way they came on to that gown, than she chooses to tell. But she has answered her purpose; and then a little girl was brought forward to swear as to the ironing of this gown, and to the smell arising from it, which made her sick. Now, when was that stain put on? Must that gown not have been wet to have steamed up and the fumes have arisen from it? What did it smell like? Who knows, except the little girl, and she was not asked. Now, were it aconite, why was not an experiment tried? Why was not a clean piece of cloth saturated with aconite, and similar experiments made with the two? Why was not this piece ironed to see if the same effects would arise from it? But no! They can kill cats and dogs, vomit dogs till they run away, but they can make no experiment so much needed as this. This is all done to leave an impression on your minds, gentlemen, to make you suspect vomiting.

This is the great turning point of the case, and every nerve is strained to prove it. If they fail here, they have lost the victory, and victory, and not truth, is what they are struggling for. But, victory to them is death to the prisoner. Not death alone, but death in its most frightful aspect. Not death by the hand of God, but death, ignominious death, by the hand of man.

Now, all our witnesses, but Mrs. Meads and Maria, had gone when this night gown was brought in at the tail end of the case, and they swear it is not the gown deceased had on that night. If it was, the colored woman swears that there was no stains there when she washed it; and would not, even if there were, hot water and soap have removed them? Now, look at this night gown; it is all folly to say this is just as it was when Mrs. Van Dusen received it from Hendrickson's; it is not fresh from the wash, and it has been worn since then.

But, the gentlemen say they admit that it is not the gown Maria had on the time she was seen by Mrs. Meads, and others, after death. Oh, they admit it, and you are to infer that the whole family were connected with the prisoner in a murder! That

he was to go deliberately at work to kill, and then the family were to, and did, lend their aid in getting on clean clothes, and fixing her out in a way to conceal the deed ! You are called upon to do this—to believe that the whole family are parties in the crime !

But there is another feature here, dwelt upon by counsel, and it is the fact that prisoner went and sat upon a chest at the head of the bed ; and you are told to imagine that in that chest were concealed the clothes in which this woman had died, and on which were the marks of her vomiting. They have not opened it ; why didn't they ? but they ask you to believe that this thing was so deliberately planned that the prisoner had bought even a change of sheets and clothes, and that they had been put on afresh. If so, why did not Mrs. Meads have noticed it ? She would have been likely to, had everything presented a new and fresh appearance. But she saw nothing of the kind. No ! he asks you to imagine all this, attaching a weight to it which may affect your decision. Do we hang men in this country by imagination ? Do we take theories, as wild and improbable as this, on which to base our judgment in a case of life and death ? He asks you to take his own wild fancies for proof, and base your verdict on faith instead of knowledge.

Now, gentlemen, we come at last to the point that should have been first presented in behalf of the prosecution, and the first considered and determined.

Has a crime been committed ? Did the deceased die of violence, that is, by other than natural causes ?

Did she die of poison, and was that poison administered to her by the prisoner ?

First, did she die of poison ? To prove this, two witnesses are mainly relied upon, Swinburne and Salisbury, each giving an opinion, the one basing his opinion upon the post mortem appearances of the body on dissection, and the other upon a supposed discovery of poison in the viscera delivered to him for examination and analysis.

The great question here is, can entire confidence be placed in these opinions ? Are they so reliable that you can safely base your verdict upon them ? Would you be willing to risk your own lives upon their truth ? If you are not, will you take the life of another ? Would that be doing to others as you would wish to be done by ?

These opinions to be sure are sworn to with a degree of confidence that is truly appalling—and who are they who swear to them ? Young men without experience, whose presumption has never been humbled by reflecting upon the weaknesses of the best disciplined minds, their liability to err, and the danger of reposing with confidence upon the most carefully formed theories.

Ten years hence, when their knowledge has increased, and they have learnt the uncertainty of the best opinions, they will be more modest and less confident. As it has been well said, and every day's experience verifies the truth of the remark, "Fools rush in where angels fear to tread."

To controvert these opinions we have placed on the stand medical men of science and skill, the one an eminent practitioner of thirty-five years' extensive experience, the other well known for his scientific acquirements, not only in this country, but his name is familiar in the circles of science in Europe ; I allude to Staats and Eumons. Still you are called upon to reject their opinions, and give entire heed to those young Napoleons, those men, as the counsel says, that never flinch, who give their opinions on matters of life and death with the same confidence they would on questions of dollars and cents, and are landed to the skies for what I consider the grossest temerity. But, gentlemen, let us come back to the question, did the wife of the prisoner die by violence, by poison ?

The prosecution undertake to prove this fact in two ways ; first, by proving poison was found in her system after death ; and secondly, by the appearances exhibited by the body and viscera on a post mortem examination.

That there was something out of the ordinary way in the death of this young woman, no one will deny ; and if anomalous cases were not constantly happening—deaths that cannot be accounted for by science and medical skill—we should not hesitate to admit her death was suspicious ; and, as she died when alone with her husband in bed, suspicion might rest on him. But, gentlemen, we know such occurrences do happen ; deaths take place whose cause cannot be discovered. I will call to your minds the death of Mrs. Le Grange, which took place a few years ago in the town of Bethlehem in this county. She had milked her cows as usual at night, and retired to rest with her husband, well,—a small child sleeping in the same room with them. The husband was awakened at about two o'clock in the morning by the cries of the child, and got up and quieted it, and retired to his bed, and noticed that his wife had not awaked. Being surprised that she should sleep so soundly, he took hold of her and found he could not awake her. She was dead and cold. No cause was ever discovered for this death, and no person was ever so uncharitable as to suppose anything wrong on her husband's part. Other cases of a similar description might be mentioned ; but, gentlemen, I will not detain you with them, but come directly to the consideration of the medical and chemical testimony ; this being the

only testimony on which reliance is placed to prove the body of the crime, that is, that the deceased died of poison.

Now we find that the body of the deceased had been opened and examined by these young men. The counsel say, and dwell much upon the fact, that they are young men. I do so; for, of all professions, this is the one in which most is learned by experience. I may without egotism say that for various purposes have I read a great deal, and studied carefully medical works, yet from want of experience would not even undertake to prescribe for a dog, so much is experience necessary in forming any judgment or coming to any conclusion where medical questions may arise. And I do say that these young men had not had sufficient experience nor opportunity to acquire sufficient to enable them to come here and express with such confidence, and so "unflinchingly," the opinions they gave.

We find that on Tuesday after the death of prisoner's wife Dr. Swinburne, in company with Coroner Smith, went out to New Scotland to the house of Mrs. Van Dusen and saw deceased. This time Swinburne, we hear, noticed extraordinary paleness, and also an unusual swelling about the lower part of the face. I asked him how, not having seen her in life, he knew her face to be swollen; for, gentlemen, the extraordinary paleness indicated an absence of blood, and not an accumulation of blood; when pale, the blood has left the part, and it shrinks. But still he affirms that he noticed this paleness, and also what appeared an unusual swelling. He next observed the rigidity of the muscles, and deemed that also unusual. Dr. Smith did not notice this. Now, Dr. Staats says that the muscles attain their full rigidity after death in from 30 to 40 hours, and when I asked this young Napoleon if age made any difference in this respect he did not know. I shall show you that this rigidity was nothing remarkable, and that this poison never produced it; and I shall show you that throughout there were no indications on which they could found an opinion that she had died of aconitine, a poison that produces post mortem appearances entirely different from those described by Swinburne.

On the 8th of March, when Swinburne and Smith went out, they opened the body and took out a small portion of the stomach and about four feet of the small intestines. These were brought in to Dr. Salisbury, and he tells us that he tried some experiments upon it, but whether he found anything or not we have no proof. But he went on and tried several experiments, and tested for thirteen different poisons, without, as far as we know, any result. On the 13th of March, Drs. Smith and Swinburne again went out and exhumed the body, or rather found it exhumed, when they got there. This time they took out the balance of the small intestines, a portion of the liver, pancreas, lungs, and some blood, and these were brought to town and also delivered to Dr. Salisbury and submitted to his experiments.

I wish you would recollect how this Dr. Salisbury appeared at the cross-examination, and how he answered my questions, and how he sought to change, in some instances, what he had sworn to before Squire Cole. I think I will show you that his testimony is not reliable and should not control your verdict. I can place this beyond all doubt, and would be almost willing to risk my life upon it. But, as to his finding aconitine, as he says, if he did find it, and as much as he represented, there was no danger in his swearing as to the cause of her death; he could do it as safely as though he had seen a dagger plunged into her heart.

He says that after he had got all these portions of the stomach and intestines, he went through his process of digesting, &c., and you will recollect that he had two quarts and a pint of this mass of matter; he then adds alcohol to reduce it to the consistency of syrup; he then says he looked into the books to see what course was to be pursued to discover the presence of aconitine. He pursued two methods, one was to discover if it was volatile, and the other if it was a fixed body.

He admits that he could only expect to get it from one of these processes. He divides this mass that he has into two parts, and goes to work with his two processes, and he gets two results; in one a liquid, and in the other a precipitate. Now, one of these must have been false; he could not have got the same result in both. What was that liquid, I asked him, and he said he did not know. He got this from that poisonous mass of stomach, lungs, blood, &c. He did not know what it was; did not taste it; and so, also, with his precipitate. But he mixed them together, and from the results of his experiments and tests upon these two bodies, which he did not know anything about, and which he mixed together, he says he procured aconitine.

(Mr. Wheaton here entered into an extended and critical examination of Dr. Salisbury's testimony, comparing his with that of Drs. Emmos and Reid, from which comparison, and from voluminous authorities cited, he drew the conclusions that his analysis and tests were not to be relied upon, and that no aconite had been discovered.)

Yet, after all this which has been conclusively proven you, we here see a young man come into this court room, and with his eye upon the prisoner, whose life he may jeopardize, he unflinchingly swears that he has found what no man has found ever before, and in the effort to find which the whole scientific world has failed—aconitine,

after it has been mixed with the contents of the human viscera. And why did he not, when he made this great discovery, call others in to witness it? Not one was present, not even his friend, Dr. Swinburne; but on himself, and himself alone, does he rely in deciding this vital and absorbing question.

A glance at his strange result: He said, however much he may now attempt to explain it, that from his processes he believes he got from one twentieth to one twenty-fifth of a grain of aconite. Dr. Emmons says that in an ounce of Burroughs' tincture there is not to exceed the one thirty-second of a grain! And how is what Dr. Salisbury says to be credited? He got one twentieth to one twenty-fifth of a grain of aconitine, more than can be got from an ounce of tincture, and about one-quarter of what can be got from a pound of root. Dr. Reid shows, by actual experiment, that there is one sixty-fourth of a grain in an ounce of tincture; and yet Dr. Salisbury says that from this small portion of the stomach and intestines he procured more than three times as much as is in only an ounce of tincture! And yet their theory is that an ounce was given to this woman!

Just look at it—the confidence of this Dr. Salisbury. He, so he says has discovered this aconitine; he has solved the great problem; and yet calls no one in to see his discovery, or to confirm it. He is in too great a hurry; he cannot wait; but administers it all to a cat. He could not wait, he had such a desire to send his name abroad; he could not stop a single moment; could not bring a particle of it into court for us to see it, or taste it; but he gives it all to a cat! He gives even himself no opportunity to re-examine; it is all away; and there is nothing left but his opinion concerning it.

How extraordinary is this conduct! What confidence in himself! He relies solely upon his taste to determine the discovery of the poisonous principle—asks no one to taste with him—gives it all to the cat—none is preserved—no subsequent examination can be made by himself or others, thereby cutting off his own retreat from error, if error he has fallen into, as he most certainly has, or the opinions of all the most distinguished modern chemists are false. What astounding temerity has that man exhibited on that stand! He weaves the cord with unflinching fingers which he knows, if his oath is credited, must encompass the neck of the prisoner

Gentlemen, has he any interest in hanging this man? Ambition urges him on. If the prisoner is convicted, his name goes forth linked with this case; it goes abroad, amongst scientific men throughout the world, that he has solved the problem all others have failed in. Why, gentlemen, does the taking of a man's life stand in the way of his desire of such fame as this? Is one's ambition to be stayed by a single life? Ambition it was that made Alexander go forth conquering as he did, and it was ambition that made him weep that there were no more worlds to conquer. What but ambition carried Napoleon on over the graves and amidst the slaughter of thousands of his fellow men. Like the car of Juggernaut, it rolls on, crushing all that may be in its way. And the scientific man has his ambition too. What else stimulates him to trim the midnight lamp? The love of science, the desire of compelling nature to disclose to him the secrets of her store house may afford one moving spring, but after all it is the fame that the discovery brings that is the great lever of the mind. It is that his discoveries may live after him, and that his name may descend honored and recorded with them. What else actuated Dr. Salisbury? But without your verdict, all this has been in vain; all these cats and dogs will have died for nothing, and the Dr.'s expected fame will die with them.

To the cat again: The doctor says he gave it all the substance he discovered; and yet, after about two hours of trifling sickness, it recovered, and then it required a further dose of six drops of tincture of aconite to kill it! Now the 50th part of a grain of aconitine is sufficient to endanger human life; yet he says he obtained from a 20th to a 25th part of a grain from the viscera submitted to him for examination, gave it all to the cat, the cat did not vomit, retained it all, and in three hours was well. What a cat! What a doctor! What an opinion, founded upon such facts!

The cat should have died out of deference to the Dr.'s opinion, or the Dr. should have given up his opinion out of deference to the life of the cat.

Now, gentlemen, let me ask you, seriously and solemnly, what reliance will you place on his opinion that he found aconitine in the viscera of this woman?

If he did, if he found, as he swore before the justice, a 20th to a 25th part of a grain, she died of poison. She vomited, because all the books say so. She was murdered, and her husband was her murderer. From this there is no escape. I will not disguise it; I could not if I would. Dr. Reid and Dr. Emmons, both learned and experienced chemists, swear to you that no safe reliance can be placed in his experiments. If *they* cannot rely upon them, can *you*, will *you*? No, gentlemen, *never, never*; human life cannot be suspended upon such a frail thread as this.

(Mr. Wheaton here read from authorities to show the danger of the kind of experiments made by Dr. Salisbury on animals, and the extreme caution with which from their appearance on post mortem examinations, should be taken as analogous to the human system, where death had arisen in both instances from the same cause. Coun-

sel further occupied considerable time in reading many cases of death caused by aconitine where the post mortem appearances were different in each.)

A few more remarks on this head and I will pass to the only other point.

Dr. Salisbury relies upon his taste; says that nothing else will give a similar taste to it. Now, Dr. Emmons tells us that veratrine does give us so nearly a similar taste that it is difficult to distinguish it, the only difference being in the time in which it is perceptible.

I have read to you and shown to you by testimony that no reliance can be placed on his chemical analysis. Salisbury admits himself that it is the most difficult of all substances to be discovered. The first attempt he ever made to procure it was from this stomach, and has never experimented on the root at all. But he says he procured half a grain from an ounce of tincture—here was over 100 doses,—yet he says it was so little that it was not worth preserving! But a grain is worth ten shillings, and I do not think that this half a grain was worth nothing. He threw it away, he had no confidence in it; why did he not bring it in here—save a portion of it for you to taste?

Gentlemen, it is upon doubtful testimony, like that, you are asked to take this young man's life. Do we hold our lives by such a frail tenure as this? What God has given, can man take away upon such doubtful proof?

Within that mortal body, gentlemen, which you are called upon to send to a scaffold and thence to an ignominious grave, there is inclosed a jewel more precious in the sight of heaven than the golden sands of all the rivers of Golconda—a never dying soul, which is destined to live, and live, and live on, when these skies, which we gaze upon now, “juttred with golden fire,” shall have all their lights extinguished by the icy hand of age, and be rolled together like a scroll; and this earth, which we tread upon, now clothed in verdure and beauty, shall be melted with fervent heat—and the happiness or misery of that soul, throughout the interminable ages that are to roll over it, is destined to depend upon its preparation for that great change which you are called upon to hasten and make. Do you doubt this is so? If not, what then should be your sense of the responsible duty assigned you to perform? Into your hands are committed the issues of life and death.

Does it, then, require any stretch of the imagination to suppose that the eye of that *Being*, without whose notice not a sparrow falleth to the ground, is now fixed, intensely fixed, on the thoughts and emotions of your hearts and minds, to see if there be any alloy of passion or prejudice dimming the pure lustre of your purposes and interests. Your duty is one of awful responsibility; you are required to take from this man, if satisfied of his guilt, what man cannot return. Your mistakes are fatal. The sword of the law does not retrace its steps; a verdict of guilty cannot be recalled or reviewed at any subsequent time, how much soever you may desire it. The prison doors may open and release its inmate; the doors of the grave *never*.

Gentlemen, I remind you of these things not to deter you from the performance of your duty, but to make you cautious, and take no hasty step. Look carefully into this part of the testimony, and, before you submit your minds to its influence, be sure it is *reliable*.

But, gentlemen, I pass to the other and only remaining point, the medical testimony.

The theory of the prosecution is that the prisoner administered to his wife an ounce of the tincture of aconite.

Now here is an ounce vial. The public prosecutor says that prisoner gave this vial full to his wife. If he did, how was it done, in what way did he administer it? It is composed of alcohol and the aconitine—and we know the effect, upon the throat, of both. Now, how did he get this down? No proof is given, no one called or asked about it. But at last, driven to extremes, counsel says he forced it down. He says this is not the time for miracles, yet gives this method as the way the poison was administered. His theory is that she was lying on her back. Now you know that even water could not be got into the throat if you were lying in that position, and if you have ever tried alcohol it is probable you could not have got a drop down. The effect would be, instead of being admitted into the passage through which the food passes, it would pass into the larynx, the respiratory organ, and be accompanied with choking. It could not be got into her stomach while she was asleep. Then he poured it down when she was awake. Can this be? Where was she at the time? Surrounded by her friends, ready no doubt to fly to her assistance at the first outcry, her husband is forcing the burning liquid down her throat; it burns like liquid fire; she knows he is murdering her. Right underneath her is her brother and sister-in-law, so near that her very whispers could be heard; her mother-in-law sitting up awake, slightly sick with a cold, so near, as she swears, she could hear the ordinary tone of the voice in conversation; no outcry is heard, no noise of vomiting, no footstep, no scream, no cry for help, all is still and quiet as the grave. The violent hand of the murderer is on her; no groans, no struggle is heard—she dies and makes no sign. Yet the theory of

the prosecution is that she vomited for hours, till she threw up all the contents of the stomach and small intestines, throughout their length of twenty-seven feet; the vomit with all its signs is removed, the bed clothes changed, the night clothes of the deceased removed and secreted, and clean ones substituted; all this done, and no sound is heard by any member of the family by whom she was surrounded. Hours, says Dr. Staats, she must have passed in vomiting and retching before she could have emptied the small intestines to the extent described by Dr. Swinburne.

All this you have got to believe before you can come to the conclusion she died of the poison of aconite.

Talk about the age of miracles being passed! what greater miracle was ever heard of than the one you are called upon to believe?

Gentlemen, you see that aged woman sitting by her son. Do you suppose she was leagued with him in this dark crime? Do you not suppose a mother's ear would have heard the sound of distress that night, and with a mother's love would have flown to her daughter's side? Do you believe, if she had thought him such a criminal, that still she would cling to him with the deepest love? Can you believe any part of this story of the prosecution to be true? Was the poison forced down her throat? Did she cry out? Did she resist? Did she struggle for her life? Did she vomit? If she did not, she may have died of poison, and her husband be guiltless of her death. Without that fact being proved beyond all doubt, no man can pronounce him guilty. Is it proved? On which side is the weight of evidence, if it was to be decided on the weight of evidence, and full proof was not required? Gentlemen, I pause, that you may reflect and answer me.

(Mr. Wheaton here reviewed the various testimony of physicians on this point. He also discussed at length the testimony of the physicians as to the appearances of the stomach and intestines being indicative of the presence of some acrid substance, and also as to Dr. Smith, who opened the body, not having seen the redness and congestion testified to by Swinburne. As to some of the peculiar appearances of the stomach, authorities were read to show that all these appearances might be found in cases of sudden death from different causes. Authorities were further cited, showing the great caution with which appearances on a post mortem examination should be taken, in coming to a decisive conclusion as to the cause of death.)

It is not my intention to detain you much longer. I have gone over what I think the main grounds in this case. You are not going to hang this man on light testimony. If you cannot come to a conclusion, on the medical and chemical testimony, beyond all reasonable doubt, that she died of poison, then I apprehend that an end is put to the question of prisoner's guilt.

Now, gentlemen, after a careful review of all the medical testimony given in this case, and after examining the medical books of authority upon the subject, can you safely come to the conclusion that this woman died of poison? Swinburne and Salisbury say she did; but where did they get their knowledge to found their opinion upon? From the same medical books I have read to you, and from the facts, as they have detailed them to you. Will you take their opinions, instead of forming your own? I have shown you from the books how little reliance is to be placed on post mortem appearances of the body, in forming a conclusion as to whether the deceased died of poison; that no sound medical man relies upon them, unless they are sustained and confirmed by symptoms exhibited before death. Yet, this Dr. Swinburne comes here and swears positively, founding his opinion solely on these post mortem appearances, that this woman died of poison, and does not hesitate even to take another step, and swear that the poison was aconite!

Have I not shown you, from the books, that he has not described a single appearance, which he described in this body, that is peculiar to the poison of aconite, and that most of the appearances are what are never discovered after death from that poison? Many of them, too, are just the opposite of what would be expected from this poison; the very cases, too, he refers to as confirmatory of his opinion, the cases reported in Fleming, being of the latter class. Well may counsel say he is *unflinching*, that he never hesitates, when he has formed an opinion, to express it. Truly so, truly so. Human life presents no obstacle to impede his course; it is no more than a willow wand in his way. Temerity, astounding temerity, marks all his footsteps in this case. Where the wisest men hesitate, he is sure. Ignorance and rash presumption ever go hand in hand. Wisdom, and learning, and experience, make men modest and cautious. How beautifully is that remark illustrated in this case. Where such men as Emmons and Staats hesitate and doubt, tread lightly and slowly, such men as Swinburne and Salisbury rush in with confident and hasty strides; where learning and experience compel the two first to doubt, the want of it makes the two last sure.

But, gentlemen, Dr. Salisbury places great reliance upon his experiments with the cat, to which he gave the products of his two analyses. He administered to her all the poison he got from the viscera of the deceased, and if he had the one-fifth part of what he swore he had, all the books say it must have killed her; yet she lived, retaining

the whole of it in her stomach. Gentlemen, I have read from the books to show how little reliance is to be placed upon these experiments upon cats and dogs, how difficult it is to perform those experiments so as to have them produce any satisfactory results, yet these tyros in science draw the most unhesitating conclusions from them.

Gentlemen, to controvert the opinions of Swinburne and Salisbury, we put on the stand two distinguished medical gentlemen, and they tell you, upon their oaths, that they have examined, carefully, the testimony of Swinburne as to the post mortem appearances they discovered in the body and viscera of the deceased, and they found nothing there that convinces them she died of poison, or even vomited. If the testimony does not convince *them* shall it *you*?

Learning and experience in their profession enable them to weigh it justly, and draw from it correct conclusions. *They* are not satisfied. Can *you* be? *Should* you be? May I not add, *dare* you be, considering the awful responsibility under which you are acting?

They say she may or may not have died of poison; she may or may not have vomited. Then it is left in doubt whether any crime has been committed by any one. The body of the offence is not proved.

But, says the counsel, these witnesses are not to be believed. Why not? Who, except the counsel opposed, would dare deny, before this community, that they were ~~not~~ both honest and capable? What interest have they to deceive you? What interest have they shown in this cause, in comparison with Swinburne and Salisbury, who have been here day after day, sitting by the side of the people's counsel, prompting their questions in the cross-examination of our witnesses, and showing more interest and feeling in the matter than the counsel themselves, if possible.

But we are asked by counsel why we did not call more medical men to controvert the opinions of Swinburne. I might and ought to retort upon them, why did they not call *one* to sustain him? Why leave him standing alone, unsupported by a single man of any honor or standing in his profession? Salisbury, and Ingraham, and Smith, who ever heard of them as medical men? Smith, the counsel gives up, and does not examine as a physician. Ingraham and Salisbury, practitioners of some three or four years' standing! Why did not the counsel call some one of the eminent men he named? Not one is called. He would, if he had dared. He knew they would not confirm the opinion of Swinburne. He let them alone; and if victory is what he seeks for, and not truth, he acted wisely.

Now, gentlemen, what more is there of this case? Is it proved this woman died of poison? Do you believe he forced it down her throat? How did he get it down, and no noise made? Did she vomit? Could it have been done, and no one of all that family hear it? And, I put it to you to say, if the prisoner is guilty, who, of that entire family, in the house that night, can be innocent?

Now, gentlemen, on what evidence will you hang this man? Why say he was the man who bought the aconite of Burroughs? Is it proved? If not, it should be dismissed from your minds. Did he inquire for prussic acid intentionally or by mistake? Can you determine with certainty? If not, dismiss it from your minds. Did the prisoner treat his wife unkindly? Is it proved? If not, lay not that to his charge. Is it proved with any degree of certainty that his wife intended seriously to charge him with trying to poison her before? If not, that part should go with the rest. Is it certain that poison was found in her system? If not, give no heed to that part. Is it certain that the woman vomited on the night she died? Is it certain she died of poison? It may be she did; it may be she was murdered; it may be the prisoner murdered her. But do the facts and circumstances proved utterly exclude every other supposition? That is the question for you to determine. Cannot all the facts proved, I mean those proved to the exclusion of a doubt, have existed and the prisoner not be guilty of the murder of his wife? I think they can, and most confidently believe you will think so too.

But I am asked to account for her death—to tell of what disease she died! You have heard me read from the books of numberless deaths where no trace of a cause could be found. They died and were buried, and the cause of their deaths was known only to Him who sent his messenger for them. We know not the cause of her death, and we had but little opportunity to learn its cause. No friend of ours was permitted to be present when her body was examined, though the prisoner requested it. No medical man friendly to the prisoner was present. We are asked to account, when all the knowledge upon the subject is in their own keeping. But, gentlemen, it is not for us to account for her death. It is for the prosecutors to prove, and that to the exclusion of every doubt, that the prisoner was the wilful author of her death.

But, gentlemen, I am done. I have already trespassed on your patience too long. I have to thank you for the kind attention you have given me through my extended remarks. My labor has been wearisome to myself, and, I have no doubt, to you. I have to thank you for the course you have pursued throughout this trial; and to the

court also I feel profoundly grateful for the ability and kindness that have been uniformly exhibited through the wearisome days we have spent here together, and whatever may be the result of this trial the public should know their servants have been faithful. Gentlemen, my mouth is about to be closed and my voice to be silent; the prisoner to be no longer heard in his defence. I am to be followed by able and zealous counsel on the part of the prosecution. Let me ask you, when you retire to make up your verdict, to remember the impressions that are now upon your minds, and let them not be removed by the ingenuity and eloquence of the counsel who follows me.

Gentlemen, I leave the cause of my client in your hands. Judge him mercifully—judge him as you expect to be judged.

At the conclusion of Mr. Wheaton's argument for defence, Attorney-General Chatfield rose for the prosecution.

MR. CHATFIELD'S ADDRESS.

Gentlemen, I feel somewhat disposed to apologise to you for an inability, which I cannot control to address you as distinctly as I would wish. My voice is hoarse, and it will be with some difficulty that I shall speak to you.

I have often in my life, gentlemen, been engaged in the trial of causes of considerable importance, and am gratified to say that it is the first time I have seen a jury act with such patience, and with such a marked desire to come at the facts, as they have in this case.

This is a case, gentlemen, of more importance than has ever occurred in this country, and of as great importance as any that has ever occurred in the civilized world. I do not mean to say that one case of murder is any more important than another; but in all its surrounding circumstances, the mystery involved, the novel and stealthy instrument of death, the effect that the introduction of this means of securely murdering would have in increasing crime, the medical and chemical questions which have arisen here—I repeat that, from all these reasons, it is one of greater importance than has ever occurred in this country. And this accounts for the course which has been pursued here, and to which I shall refer hereafter.

Your duties are extremely delicate, and I have reason to thank God that it so seldom falls to the lot of man in this world to perform them. With a very few exceptions, the civilized world has concurred in the propriety of punishing the crime of murder with death. Early in the history of the world, He who fashioned man after his own image, traced with his omnipotent finger, on the tables of the law, this solemn injunction—"Thou shalt not kill;" and this feature of the criminal code has uniformly marked the boundary between civilized and savage life. In a state of barbarism, the *lex talionis* is the supreme law, and the man's of the murdered is only appeased by the shedding of the blood of the murderer. But civilization has, with a more humane philosophy, committed the duty of punishment to legal tribunals, controlled by wise rules, for the ascertainment of truth. There are people, gentlemen, and I doubt not good and humane people, who do not believe in this punishment of death; who believe that society would be as well protected without it. For myself, gentlemen, I hold that society could be as well protected without the death penalty. Twice, as a member of the Legislature of this State, have I voted for its abolition; and were I again to be honored with a seat in that body, and to be called on to cast a vote on that subject, I should vote, as I have voted, for the abolition of capital punishment. Was it with me a matter of conscience, I would no more stand here to urge the conviction of this man, than would you, being controlled by conscientious scruples sit in that jury box to pronounce a verdict of guilty. But with me it is a matter of expediency, and not of conscience; so long as the law, which inflicts the punishment of death, exists, it is my duty, and it is your duty, to see it faithfully administered. Was it a matter of conscience with me, I never would stand here a moment to urge the conviction of that man, any more than you would sit there, when, if guilty, you must convict him.

Gentlemen, I am the last man to urge a conviction in a capital case, when I have not a clear opinion of the guilt of the accused. What my opinions are of this man's guilt will appear as I proceed in my address to you.

The law, in its humanity, has thrown abundant safeguards about a man placed in these trying circumstances, rendering it impossible for injustice to be done for want of information on the part of the accused. He must first pass the ordeal of the grand jury twelve of whom must concur in believing him guilty from the evidence before them. When the grand inquest has returned the indictment, then comes the traverse, in which he is permitted to confront the witnesses who testify against him, and is allowed the aid of counsel of his own selection, and, practically, the selection of the jury who are to try him. He has in his hand twenty peremptory challenges, and may interpose them against any juror drawn, with or without cause, and may set aside

any juror who may be obnoxious to his judgment or caprice. He has also his challenges to the favor, and his principal challenges, to determine all questions of competency and impartiality, thus securing to himself every advantage of fairness and integrity in his jurors.

But I confess, gentlemen, that I did not like the remark of counsel when he said you were a jury selected by the prisoner, and hence that you were to sit for him and not for the public. You were selected to stand unbiassed between the prisoner on the one hand, and the public on the other. In the discharge of these trying duties, you may be likened to the shew bread of old, which was set apart and dedicated to holy uses. In the language of the law, you should "stand indifferent as you stand unsworn." Your clear duty is, to see to it that no unjust charge should be allowed to prevail against the prisoner, while, at the same time, you take care that *the laws of the land are not violated*. On the one side stands the prisoner, and he should be protected against any possible misconstruction of facts; and on the other stand the people, who should be equally protected against the midnight assassin who would imbrue his hands in his brother's blood. There are two sides; and you will see to it that, in the discharge of your delicate duties, you are guided by firmness, truth and honesty.

Notwithstanding the grand jury has found a bill of indictment against the prisoner, this circumstance affords no presumption of guilt. His innocence is presumed until he is *proved* to be guilty, and this presumption of innocence must be overthrown by clear evidence; before he can be convicted, your minds must be convinced, beyond a reasonable doubt, by the *evidence*; for the prisoner is entitled to the full benefit of all reasonable doubts; and we are compelled to assume the burthen of proof. He is also presumed to be of good character.

Thus, you see, he comes here with all this protection which the law and these presumptions afford him.

Allow me to make a remark on another subject, collateral to the main issue, before I enter on a discussion of the case; and, gentlemen, it relates to your duty as jurors. What is that duty? You are to decide this case on the evidence, and nothing but the evidence. No other considerations can rightfully find a place in the jury box. You have sworn to determine the issues of life and death in this case *according to the evidence*. Neither the local position of counsel, his eminence or his reputation, is to have any effect with you; the low muttering which has been going on, with a view to reach your ears, the affectation of superiority, the bullying and browbeating which have been attempted by prisoner's counsel, is not to have any effect. This case is to be decided without any regard to such matters as these. Your oath is a fair epitome of your duty; according to the evidence you judge and decide. If this evidence has not convinced you, then the prisoner is not to be adjudged guilty; if it has, then I expect, and the country expects, that you will walk manfully to the discharge of your duty.

Gentlemen, care has been taken to keep you from the public, so that, when this case has terminated, no imputations of tampering or undue influences may be made as regards you. It is for you and you alone to pass upon the evidence, irrespective of the opinion of all others. This isolation has been for your protection; it was to shield you from unjust suspicion and from the assaults of the censorious; and it was to guard against the influence which public opinion might possibly exert over your minds, for, I should be ashamed of myself if I had sought to influence you by an attempt to make you acquainted with the opinions of others. Yet has there been an attempt made here to introduce to you the opinion of medical men, in regard to the testimony of witnesses on the part of the people; but in my remarks I shall give you my opinion of this so-called opinion.

I shall go through this case, stripped of all the comments of counsel; I shall take the testimony first, and then read his remarks. This will keep them distinct, and will enable you the more readily to discern the mountains of perversion which have been heaped upon all the facts in the case.

A word may be said as to the nature of the evidence in this case. We admit it to be purely circumstantial; and, notwithstanding much has been said about circumstantial evidence, its weakness and danger, I aver that, as a general thing, if the murderer is not brought to punishment by this species of evidence, he cannot be punished at all.

If you can find me a man who takes a witness along with him when he commits the crime of murder, I will show you a man who would be acquitted on the ground of insanity. The lunatic asylum, not the gallows, claims him. There is not one case in a thousand where there is a witness of the act, unless it is accidental. And I think it may be safely said that circumstantial evidence is frequently more strong and more convincing in its character than any other kind of evidence. And so it is described in the books. It generally consists of an assemblage of independent facts, all tending to one conclusion, and its strength is multiplied in the ratio of the number of facts by which the main fact is established. One circumstance, I admit, will not do, for it then partakes of the nature of direct evidence, and must be conclusive, of itself, or it is

worthless. But, in the multiplication of the circumstances, all pointing in one direction, you will find safety, and they will afford you a satisfactory ground on which to base your conclusion.

This is the rule, and one upon which, in this case, *ex necessitate*, we are to rely. But, if the circumstances we prove convey a conviction to your minds, I apprehend you will feel no hesitation in considering this kind of evidence safe enough to warrant your verdict.

Now, gentlemen, let me proceed to an examination of the case.

Our first duty is to prove the *corpus delicti*, the fact of finding a dead body. In all cases of alleged murder, this is a fact first to be established; and in our subsequent search for the murderer (to employ the figure of the defendant's counsel), inasmuch as there is "a divinity which shapes our ends," although we may be groping our way in darkness, we may hope to find some footprints in the path of crime to guide us, and that the Sun of Righteousness will shed some scintillations of consecrated light on the dark pathway which we tread.

To establish this fact—the *corpus delicti*—we call four witnesses. We find that prisoner and his wife went to bed Sunday night, about 11 o'clock; that the family were aroused about 2 o'clock in the morning; that Matthew arose, lit a light and went up stairs; Maria did so soon after, the mother and Matthew's wife following. They found prisoner's wife lying in bed. They attempted to recover her, but she was dead.

We have here the dead body.

The next evidence which I shall give you relates to the cause of death. I shall do this in order to divide the prisoner from this part of the testimony, to separate him from it, until I come to connect him with it.

In the order of proof I must retrace my steps, and again conduct you to that chamber of death, because what we find there will aid us in our search. We find the deceased lying in the middle of the bed; the prisoner sitting up in the back part of the bed; she lying perfectly natural, with her hands folded on her breast, the bed clothes and her own apparel smooth and undisturbed, nothing, in short, to indicate the mortal agony, the death struggle of the separation of soul and body; but there she lies, like natural and peaceful sleep, with not a ripple in her glossy hair, nor the distortion of a limb, to show that violence preceded death.

At this stage of the case, we are called upon to show that this death was not the result of natural disease, but that it was the effect of violence. This is deducible from the conduct of the prisoner and the family on that occasion, and the external appearances of the body, as well as from the medical and chemical evidence. I believe this death not to have been a natural one, from the conduct of the prisoner and the family on that eventful night. I ask you to believe nothing whatever with regard to the complicity of the other members of the family in this tragical affair; and I would to God that I could not, but a horrible suspicion has fastened itself on my mind, which I cannot shake off. But the acts of all are important, so far as they bear on the question we are considering.

You find the prisoner sitting in the back part of the bed, and saying or doing nothing. Counsel says he was paralyzed. How, then, could he call out? Why, gentlemen, who that knows anything of the workings of the human heart, does not feel that, had he been innocent, he would have jumped out and rushed for a light instead of calling for it? But no. There he sat as calmly and undisturbed, from all accounts, as though it were a dog which lay dead beside him. This fact is full of significance.

Now, we do not know how long he sat there. There is no evidence of the time.

What was the conduct of the family? Not one word was whispered there among them in regard to her death! They did not believe her dead, they say, when they first reached the chamber. They made efforts to revive her, they say, but not one word was uttered among them in regard to sending for a physician, nor for the neighbors until they *knew* she was dead. Why, gentlemen, what would you do were you to wake up and find your wife lying, as though dead, beside you? I am certain that my first act would be to spring out of bed, and my first thought to send for a physician. Dead or not dead, I would see what could be done to revive her; and whether the physician was far or near, I should send as speedily as possible, irrespective of distance, and so would you, gentlemen.

Another singular feature in their conduct: What was it that made all these people look under the bed, and look into the chamber, and all know so exactly what was the contents of that chamber? Who would, if they were attending the dead, prowl around in this way? What motive induced them to be so singularly curious about this particular vessel and its contents, and why were they searching the room to ascertain that no other vessel of any description was to be found there? Why were they looking for things of this description at all, instead of devoting their attention to the deceased, unless a horrid suspicion provoked this most unnatural curiosity?

There is another piece of evidence, and it too is significant. What became of the candle with which John went to bed, and which was left for him on the table in Matthew's room? What became of that candle? for it is sworn that there was no candle

there. Now, if there had been a half-burnt candle there, remembering all the circumstances, would they not have noticed and remembered that? Would not Maria's tenacious memory have recalled it? Was not that candle employed in concealing the evidences of the night's damning work, and was not this the candle seen by Wendell Oliver?

The idea that she committed suicide may as well be disposed of at this point. Had she committed suicide, after going to bed that night, would not some indication have been given of it? Would not the vial, if by a liquid, the paper, if by a powder, or something leaving a trace of the means used have been found? Would there have been no struggling, no noise, to have awakened her husband; and no disturbance of the bed clothing, no distortions of the body in the agony of death? Would all have been silent and peaceful, leaving no trace to mark the exit of the suicide? The idea is nonsensical; and counsel only make use of it on finding the evidence crushing them—on finding it too heavy to be borne.

Now, as to the cause of death. We have the dead body; and, in order to find the cause, have explored the whole range of medical and chemical science.

In re-connection with this question, her previous health is important; and on this we call Mrs. Van Dusen, the mother of the deceased, who says that for some time previous to her death she had recovered her usual health; and two other witnesses, who had seen her but a short time previously, who testify to her saying she was well. One of them saw her at church on the Sunday evening, and she says she appeared cheerful and well. Mrs. Veeder also testifies that with the exception of a time when she saw her at a ball, she appeared in good health. From Dr. Springstead, who was her physician, it also appears that she had recovered from most of the effects of a previous disease.

Now as to her health on the last Sunday as described by the family. I admit they say she was sick; but I ask you, as sensible men, what that amounts to? Did she go to bed? No. Did she go to the table? Yes; and she went also to church. Would she have done so had she been sick, as is described? I infer from what she said to Miss Luicks at church, and her conduct at the house, that she was in her usual health. She did when she got home what the others did not; she took the Bible and read aloud from it; and who feels like doing this when suffering from as severe and painful a headache as she is said to have had? Which of you, gentlemen, would feel like sitting down and reading when suffering in this way?

I will allude to several incidental matters, which are of great importance in this connection.

Now, when she was dead, her face was found to be swollen. This is sworn to by those who knew her well. This is important, as characteristic of the effects of acedote. Another is the unusual rigidity sworn to by Matthew, and also what the old lady said about the jaws, that she tried to open them and could not.

If Matthew is to be believed, there was a marked and unusual rigidity of the muscles; and this is a characteristic of the poison. I care not how much he may now seek to qualify his testimony. She had been dead but a few moments. The body was still warm; and yet he found the limbs stiff. Counsel have tried to explain this; but the attempt seemed very like a cry of wo, "that all was lost."

The court here adjourned till Wednesday morning at nine o'clock, A. M.

TWENTY-FIRST DAY.

WEDNESDAY, July 6.

Attorney-General CHATFIELD resumed:

When court adjourned last evening, gentlemen, I had referred to the appearances of the body, and the efforts which were made by Mrs. Hendrickson to open the jaws and get some restoratives into the mouth.

Without reference to medical opinion, I believe every one of the jury have an opinion of their own as to the appearances of a body after death.

What they call rigidity is, it is true, a natural result of death; but its degree is proportionate to the time which has elapsed. Again, there is a marked difference between ordinary cadaverous rigidity, always present, in a greater or less degree, in the dead, and the sudden rigidity resulting from muscular contraction, and produced by spasmodic action. This distinction is readily perceived by the practiced eye, and is never found in the bodies of those who have died of natural diseases.

That it existed here, we have the evidence to which I have called your attention; in addition to which, you will recollect that the prisoner told Mr. Alej that when he woke up he found his wife stiff.

There is another question, bearing upon the pathological evidence in this case, and that is the evidence of Mr. Meads. He says, when he first came in, he put his hand upon her heart and thought he felt a fluttering; but the second time he did so, thought

he was mistaken. It will be for you to say whether he felt the heart flutter, and it is my opinion that he did.

This action of the heart is continued for some time after respiration has ceased, in poisoning by aconite, and seems to be one of the characteristic effects of that particular poison.

The external appearances, to which I have thus far called your attention, were all noticed before the removal of the body from Hendrickson's, and within a short period after her death.

The body was taken home on the afternoon of the Monday she died. Mrs. Van Dusen, the mother, who was so unjustly, and, I was about to say, infamously, assailed by prisoner's counsel, received the first intimation that she was sick or dead when she was brought to her door and left there.

Doubtless this afflicted mother was anxious to discover the cause of the death of her beloved child, and her conduct was not very different from that of any mother, who, with streaming eyes and swelling heart, gazes on the cold form of the loved and lost. She gazed, as none but a mother can gaze, down into that coffin where lay buried all her hopes!

Is she to be assailed here because she could not banish from her heart the feelings which God implanted there? She did stand by that coffin and watch the appearance of that face, every line and lineament of which is indelibly impressed on her memory, and will there remain until she is called to meet that murdered daughter in a purer and a better world.

What did she see? She noticed an unusual palor. She had seen many a corpse, but never had noticed a palor like this. She says there was rigidity, and also a swelling of the face, around the lower part; and there was a constricted, retracted appearance of the lower jaw.

Now, upon the hypothesis that aconite produces contraction of the muscular system, these appearances are synonymous with its effects.

She also tried to move the arm, and, when lifting it, it flew back. This is called elasticity, and almost always accompanies death by the poison of monkshood.

Now, I ask you if there has been anything to shake your confidence in this evidence? If not, then it is established.

Dr. Swinburne also speaks of the palor, and says it is not found in dead bodies.

Another thing which was noticeable about the body, and which I say is characteristic of this poison, aconite, is the blueness of the lips, noticed and sworn to by one of the witnesses.

There is another thing, gentlemen, which speaks volumes in this case, and it is that *ecchymosis*, or spot upon the lip. What was it? Where was it? It was a bruise, about the size of a sixpence, inside of the lower lip—a little to one side—and in it was a cut corresponding to the size of a tooth. Now, how came that wound on the lip? The medical men say it could not have been given after death, and how came it there? even had she contemplated suicide, I shall ask you how it came there? for in doing this it never could have occurred. No! gentlemen, that cut was inflicted when the vial was placed to her mouth; was inflicted when the fatal dose was forced down her throat. The sore lip, which it is said she complained of on Saturday (if there was a word of truth in that absurd story) would not account for it, for it was a flesh wound. It has not been accounted for, and, while it stands unexplained, is of fearful moment to the prisoner; it is most pregnant and conclusive evidence in this case, and is one of those incidents which traces out a murder; and it seems as though there was a Divinity which by these things, small in themselves but great in their connection, trace out a murderer and reveals his crime. This bruise tells a fearful tale.

In pursuing our inquiry into the *cause of death*, we now approach the *medical evidence*, and this consists of post mortem appearances and professional opinions. The post mortem appearances are established by the testimony of *four witnesses*—Doctors Swinburne, Ingraham, Smith and Salisbury.

Counsel has seen fit to endeavor to crush Drs. Swinburne and Salisbury; and he has admitted, if they were to be believed, his client must be convicted. Here, gentlemen, I thought he tendered to us a most dangerous issue; but he has thrown down the glove, and it is with pleasure I take it up, and meet him on the ground of their credibility.

Gentlemen, who is John Swinburne? John Swinburne, with that frankness characteristic of the man, sunny frankness, that knows no guile, he comes here and tells you he is a native of Lewis county. He was of humble parentage, and like other poor boys, I suppose, he had to work to acquire the means to further him in knowledge. He finally is found in the Lewis academy, thence to Fairfield, and from thence he comes to this city. At the medical college here, he acts for two years as demonstrator; since then, he has had a private dissecting room, and has probably made more post mortem examinations than any man in the state.

John Swinburne was not put on that stand because he had a diploma in his pocket, nor because he had been born with a silver spoon in his mouth, and been reared in

the lap of luxury. We placed him there because we know him to be an intelligent, scientific and honest man; because we knew that he would give us truth, which we were seeking for.

Gentlemen, I have yet to learn that colleges or college honors make the man. Wherever you find distinguished talent, in whatever profession you find mind leading in the race of popularity and distinction, in whatever walk of life you find prominence and true superiority leading to honor and respect, you will find that zeal, courage, virtue, industry, indomitable will and untiring perseverance underlie it all. These men, cast in nature's noblest mould, are learned and intelligent in spite of colleges; and, in our land, nineteen out of every twenty of the men who have deservedly received honors from the hands of their fellow citizens, have fought their way to their exalted position from the humbler walks of life. They have conquered disadvantages which would have appalled the softer natured collegiate, and, thirsting after true and useful knowledge, have attained it because it was attainable to the intelligent, the industrious and the good.

If I were to look for the intelligence of the land, I would look to what is termed the middling classes, for it is there we find sound, practical sense; it is there we find incorruptibility; and it is there we find those qualities of head and heart which endear man to his fellows. It is here, also, that we find that patriotism which protects the interests and institutions of our country. It is to that class John Swinburne belongs. He does not come here resting on a mere diploma, but he comes here with a pure heart, a clear head, and a richly stored mind.

The community will cherish such men as he; and I here tell the gentlemen that the name of John Swinburne will live long after his bones have mouldered in the dust.

And yet the counsel has not hesitated to cast on John Swinburne the foul imputation of having falsely sworn away the life of a fellow being for the ignoble object of adding to his professional reputation by the horrible sacrifice!

No man can sufficiently execrate the base wretch whose nature is so diabolical as to allow him to swear away the life of a human being for the sordid purpose of increasing his own professional standing. Gentlemen, the suggestion was most monstrous!

Confident in his integrity, his intelligence, I am willing to bring John Swinburne here, and I am willing to rest this case on his credibility; and I wish we had more men of as clear heads and pure hearts as he, instead of the scores of charlatans and quacks who can use muriatic acid for a tooth wash!

Were it mere opinion that John Swinburne swears to, you might distrust it; but it is not; it is fact upon fact, derived from personal examination of the body, and from close study and great experience in his profession.

I will give you now, very briefly, the main points he swears to. Remember, he has dissected at least one hundred and fifty bodies; and I ask you if he has not had an ample opportunity of judging in regard to the matters he swears to? He says the appearances of the body were not ordinary. Gentlemen, one in this business can detect as readily an unusual mark, as could any of you detect the loss of a sheep from out your flock. His business is with and around the dead. John Swinburne has been constantly among them. He tells you of the palor of the countenance, a peculiar, clear, transparent complexion, into which you could look as into a pool. The next day, when he examined the body, he tells you of this suggestion, the settling of the blood on and around the posterior parts; to this fact, however, I attach but little importance. But as to the rest of the appearances described by him, from them he could tell the cause of death, and the poison which had consumed it.

In regard to the rigidity of the muscles and jaws, which he spoke of, I shall show you that these are characteristic of death by aconite. He tells you that the body was so stiff that, in raising the head, the whole body was raised with it.

The lungs and heart were healthy. But there is one feature about the heart which, like the bruise on the lip, is full of importance—it is that little clot of blood in the right ventricle. With the exception of that clot, all the blood was fluid, and this fluidity is an indication of poison. That little clot of blood, I say, was full of significance. It is another of those little things that point out the murderer's guilt; for you will remember that, in all the experiments which Salisbury made upon animals with aconite, on a post mortem examination a clot of blood was found in the right side of the heart.

Now we come to the stomach; and on examining the authorities which prisoner's counsel has produced, I think they establish, beyond all doubt, the facts we seek to prove. As to the congestion—which I wish you to bear in mind, for counsel made a point of it—I shall show you that it was perfectly consistent with all we seek to prove. (Counsel here read a portion of Dr. Swinburne's testimony, as published in the *Express*.)

These were the appearances when on that day the organs were taken out and examined. The second time that Dr. Swinburne went out, the body had been taken up,

and he re-opened it and gives you this further description. (Counsel again referred to the testimony of the Dr., which is familiar to all who have watched the case.)

You will see a combination of appearances here—it is not a single symptom, but a combination of them—such as we have never known or read of before, and on these appearances are we compelled to rely.

What does Swinburne tell you of these appearances? He says he discovered no cause of death except in the stomach and small intestines; he found inflammation there; he tells you it was indicative of the presence of an irritant substance, and tells you she came to her death by poison, and in his opinion the poison was aconite. He does not do this on opinion merely; he experiments subsequently with aconite upon a dog, and saw its effects.

Now, the counsel has made, or attempted to make, a great deal of fun about this dog. It was administered to it for the purpose of aiding in solving a problem—whether this woman vomited or not. The Dr. tells you it vomited some twenty times. He also poisoned a cat, and he saw one poisoned by Dr. Salisbury; and, from the characteristic effects, he says this woman was poisoned by the same substance.

But counsel say we have no one to corroborate Swinburne as to the appearances. Where are Doctors Ingraham and Smith? Do they not do this, and do they not also say that she was poisoned? And here let me say that Drs. Emmons and Staats corroborate Swinburne in this part of the case.

Having disposed of the medical evidences, we now approach the chemical; and its importance in connection with the cause of death has been properly appreciated by the learned advocate. Counsel felt it to be so, and brought all his strength to demolish the evidence. I admit that here we rely upon the evidence of Dr. Salisbury; and it is sustained, notwithstanding the assault and invectives of counsel.

Who is James H. Salisbury? We hear little of him at first, except that he has come up to the position he now occupies, pretty much as did Dr. Swinburne: by his own energy and perseverance. He was from Cortland county; we hear of him at the Homer academy, where, from what he says, I should think chemistry, at that early day, was his favorite study; from thence he goes to the Rensselaer academy, and finally we find him in the State laboratory, under Dr. Emmons. Here he pursued investigations in organic chemistry; and I put it to you if this was not a school from which a man of intelligence and ability might acquire a front rank in his profession? There is no man in the city of Albany, or in the country, who has a purer character, a more exalted character for truth, honor and integrity, than James H. Salisbury. I have known him four or five years, and I say none too much in saying that there is no man more exemplary. If he were the villain counsel has represented, could not some one in this city, where he has lived and is known, have been found to come forward and say so? And I now ask counsel if he can recouile his gross attack on this young man with his sense of duty and propriety, when he is compelled to admit, by his failure to impeach him, that his character is above reproach?

Gentlemen, Dr. Salisbury is pure in his life, in his walk, in his acts; and show me such a man, and he cannot commit perjury.

More may be said of him. I do no discredit to the chemical world, when I say that I believe he knows more about aconitine than any man living. He has given it the most untiring, unwavering attention; has brought to his aid all that science, and all that experiment and investigation can furnish in regard to it; and, I repeat, I believe he knows more about it than any man in the world.

If we bring to the stand a witness to develope truth, who shall we bring there but the honest, the intelligent, the pure man? Gentlemen, I ask you to believe Dr. Salisbury because of his intelligence and his character, and the intrinsic evidence he gives you of his honesty; and yet he is charged by the prisoner's counsel with perjury! I do not believe in this charging a man with perjury, to rob the gallows of a fitting victim.

Now, what does he tell us of the appearances, corroborating as he does, Dr. Swinburne? I read to you. (Dr. Salisbury's testimony was here read.) This is by Dr. Salisbury, who opened and examined the intestines; upon this he gives you an opinion. He tells you, gentlemen, that these appearances show that she vomited, and that she was poisoned, and that the poison was aconite; and this he proved by experiments which he made for the purpose of satisfying himself.

Gentlemen, I ask you, in view of the responsibility he incurs here, and the delicate connection he has with this case, what was there wrong in his confirming his opinion by making these experiments upon animals? He did confirm them thus, and he came here to give us the honest result of his labors.

In connection with the medical evidence, I trust the jury will bear in mind the clap-trap offer, so vauntingly made by the prisoner's counsel during his argument, to then introduce upon the stand medical men in this city, and see what their opinion was in regard to the testimony of our medical witnesses, presuming they would be adverse to them. I would be willing to leave the case on this hypothesis; so plain is it, that every

man who has read or heard it has but one conviction; and the moral and medical testimony, without the chemical, is enough to prove the guilt of the prisoner.

But, gentlemen, I ask, in all sincerity, how can the learned counsel—if he really believed that Doctors March, Hun, or Arnisby would testify as he would have you infer from this off—reconcile the not having put them on the stand with his clear duty to the prisoner? He has told you that the physicians of Albany are highly intelligent, and willing to assume all reasonable responsibility; and he has most singularly added that, if the evidence of Dr. Swinburne was true, they would have flocked here by scores to support him. I fully concur in all he has said in respect to their intelligence, and I will add that I believe them humane; and I cannot for a moment believe that, watching this case with intense professional interest, they would have stood quietly by and seen a fellow being sacrificed by professional falsehood. If Dr Swinburne had been grossly wrong in his view of the case, these gentlemen would have stepped forward to expose the fallacy, and not leave the whole weight of this defence on the single shoulders of Dr. Staats.

(The learned counsel here went on to describe, at some length, the different processes pursued by Dr. Salisbury to discover aconitine.)

Now, I think he took the greatest pains to make his experiments perfect. He does not say his tests are infallible; he says they are merely indicative of the poison. And I now come to what I consider a great deal more interesting and important; I mean the chemical analysis.

(MR. CHATFIELD spoke of the two processes pursued by Dr. Salisbury, and remarked that he had adopted the first process to procure the aconitic acid, and the second process to procure the aconitine; if it were a fixed or a volatile body, one of the two processes would obtain it.)

He would not say how much he had got, but he says he did obtain it. Is there any reason why you should not believe him? But the gentleman says he ought to have brought his laboratory here; that he should have called some one in to see and taste what he had procured. But what did Reid and Emmons do? Did they call any one in to see or taste? And yet they make a great bundle of it, that Dr. Salisbury did not call in the whole world to examine it.

He did depend on his own taste; and whosoever tastes it once will ever remember it, the taste being so peculiar that there is no mistaking it.

But this was not all. He proceeded to administer it to animals, to see if it produced its characteristic effects; and I submit to you if it was not a most satisfactory test? (The counsel here described the effects upon the animals, as testified by Dr. Salisbury.) Now counsel asks why it did not act with more rapidity upon the animals? I answer that the poison was put inside of little pieces of meat, and then it was necessary these should be digested ere the poison could escape and commence its effects. And did it not produce the characteristic effects? (Counsel here cited numerous cases to show it did.) You see it did, and I now ask you if he did not find it, by every test and symptom? And we have the counsel's own admission that, if he did find it, that man is guilty of this crime.

Now I purpose answering counsel, as to the faith to be placed in experiments on animals. (Counsel here read from books to show that, so far as domestic animals are concerned, upon which Dr. Salisbury experimented, experiments might be made from which to draw safe conclusions.)

I again ask your attention to that clot of blood in the right side of the heart. Here was a Providence! Dr. Salisbury tells us that, in all the animals which he poisoned with aconite, on a post mortem examination he found a similar clot. It is like the "damned spot" on the hand of Lady Macbeth; "it would not out." There it stands, an imperishable monument of this mode of death. Nature follows the course which the great artificer has laid out for her, and God works by given laws. And when you find that this little clot of blood is found in every case of death by aconite you can see in it a "Divinity which shapes our ends, rough-hew them as we will." I confess that I regard this as a clinching fact. It sounds like the stroke of the hammer upon the coffin of that murderer, and seems as though the hand of Providence was in the stroke.

Having shown that the deceased came to her death by violence, or by criminal means, our next duty is to ascertain what connection, if any, the prisoner had with this cause of death. Did she die by her own hand, or by the hand of another? and, if by that of some other, by whose?

The question of suicide I have already disposed of; but, if such a question still remained in the case, it would be worth our while to inquire why the numerous and anxious friends of the prisoner, who have so constantly and earnestly labored in his behalf, have not been able to find somebody to whom the fact of the deceased having procured a poison of some kind was known.

It is true that Dr. Springstead had, at one time, about a year ago, prescribed for her sugar pellets and powders, containing aconite; but in twenty-five boxes of these

pills there was but a single drop of mother tincture of aconite, and about the same quantity in two hundred and fifty powders. Five minims, or from five to ten drops, are said to be a common medicinal dose. You will therefore see that one hundred boxes, or over one thousand powders, of Dr. Springstead's medicines, only contain a common and safe dose of this medicine; and the doctor, very properly, has said to you that if she had taken all the aconite he ever gave her, at a single dose, it could not possibly have harmed her.

In connecting the prisoner with this transaction, it is necessary to retrace our steps, to show that he, and he alone, possessed, from the circumstances of time and place, the only opportunity of committing the murder. It is shown that, on this fatal night, the prisoner and his wife retired to this attic room, together and alone. The circumstances utterly preclude the idea that any other person could have found access to that room on that night, and forcibly administered this deadly drug to her. When they retired, she was in her usual health; and, at about 2 o'clock, she was found dead. The prisoner was alone with her, in this retired room, and in a part of the house not likely to have been heard by any of the family but his brother Matthew. If she died by poison, I put it to you to say who administered it, if it was not this man?

In this connection, the conduct of the prisoner and family again become important. Let us recall his position and deportment. When found, he was calmly and quietly sitting up in the back part of the bed, and his wife lying dead before him. This calmness was unnatural; it was such conduct as admits of no explanation on the hypothesis of his innocence. It was altogether too stoical for weak human nature. No feeling, no emotion was manifested; and I appeal to your hearts and to your experience to say, if this woman had died a natural death, and there had been a title of that done for her which has been claimed, would there have been dry-eyed mourning about that bed? Would there not have been some natural grief, some manifestation of sincere sorrow, even by this obdurate man? We have no evidence that a tear was shed in that chamber of the dead. The whole scene speaks of some terrible calamity, which, by overwhelming them, had dried up the fountains of grief.

The counsel says the deepest grief is not loud. But I don't like to see a dry-eyed mourner; I always doubt the man or woman who can see loved ones lost to them, and do not shed a tear. In a true heart the great outlets of grief will bubble up, and tears will flow; a true heart cannot restrain the promptings of nature.

It has been said, by counsel, that prisoner has said she was dead; he had good reasons to say it, and to know it also. He sat there in bed, manifesting no emotion or feeling. There he sat, and continued to; it is true he shook her, and said "Maria! Maria!" Gentlemen, I say this is not natural, not according to the feelings God has implanted in the human heart. If he had murdered her; if he was so hardened as to have poured poison down his wife's throat, I should expect no more feeling from him. I would to God that another horrible feature of this night's transactions had left no trace on my mind—that I could rid myself of the hideous impression!

According to the evidence, Matthew came up with a light, and there he stood at the foot of that bed of death, the prisoner sitting up; and there they stood, these two brothers, looking at each other, not one word exchanged between them, not one remark; but there they stood looking at each other!

Gentlemen, if that chest, on which the prisoner afterwards sat, could be made to give up its secret, there, in my opinion, would this horrible mystery be fully unfolded. Doubtless it contained the damning evidences of his guilt; and it was for this reason that he obstinately retained his place upon it. When the neighbors came, he still sat there, maintaining an unbroken silence; occasionally, apparently, sighing, as described by Mr. Meads. Did it contain the concealed contents of that woman's empty stomach and intestines?

The whole proceedings leave an impression which is most painful. If that scene could pass before some magic mirror, we would have a picture such as we may now imagine. And I am afraid that, in the tragedy of that dreadful night, we should see before that bed more figures than one; we should see other figures than that of the prisoner!

In proceeding with our evidence to connect the prisoner with this transaction, we must leave the dead, and commence our journey with the living; and our first attempt will be to show the purchase of aconite by the prisoner. In this connection, we have evidence from two sources—from disinterested witnesses and from the family—and these are somewhat in conflict as to time. I cannot say, gentlemen, how far I should be willing to trust myself on the stand as a witness, in a case involving a charge of murder against a son or a brother. I should be afraid to trust myself; and, while I would weave for this distressed family a mantle of charity, sufficiently capacious to cover them all, I should exercise a reasonable discretion in yielding credence to the testimony given by them, influenced, as they must be, by the most powerful

motive which can be addressed to human feelings. I think I ask nothing unreasonable, when I ask you to take the testimony of the disinterested witnesses in this case. They have no motive but to disclose the truth; and it would be horrible to suppose that a human being can be found diabolical enough to commit wilful perjury, in order to send the prisoner to a felon's grave.

Springteed swears that the week before this death, prisoner came to his store and inquired for prussic acid. What is prussic acid? One of the quickest, surest, deadliest poisons known to the world, and the prisoner was aware of it; and what he wanted it for, we are not now permitted to doubt, for the subsequent events in this tragedy tell us. Springteed is sustained in the fact of prisoner being in his store by Haswell and Haight. But Dr. Staats is brought here to swear that country people don't know anything about poisons, except it be ratsbane! But I think, in all matters of general information, you can find no people better informed than those in the country; and to say that they know of no poison but ratsbane is a gross slander upon them.

Admitting this crude idea of the learned doctor to be true, and where does it place this prisoner? Why simply that he is more learned in toxicology than his fellows; and his superior information was acquired with a motive. He, at least, countryman as he is, has, for some purpose, inquired into the nature of destructive poisons, known only to the scientific world; and you will determine whether this knowledge is not evidence of a criminal intent.

It has been said that the prisoner had no knowledge of the properties of aconite; but it will be remembered that himself and friends preferred the homoeopathic system of medicine. The disciples of this school employ the most deadly poisons as remedial agents, such as strychnia, belladonna, morphia and aconite, in exceedingly small doses. Dr. Springteed, a physician of this school, had prescribed aconite for prisoner's wife, and it requires no stretch of the imagination to believe that the prisoner made inquiries of the doctor in relation to the medicines he was administering; and, if he did, the doctor doubtless told him that it was a most deadly poison. It is clear that he was not ignorant of the nature of prussic acid; and, in his inquiries for poisons, it is remarkable that he should, in his pretended ignorance, have selected two of the most destructive.

Now did prisoner buy aconite? I was surprised to hear counsel accuse Dr. Burroughs of perjury, in order to secure to himself the paltry advantage of an advertisement. It shows that counsel have been driven to every recourse. Dr. Burroughs gave you a good reason why he could speak with greater certainty now, of the clothes worn by the man who came into his store, than he could on his examination before 'Squire Cole; and though he could not then positively describe the articles, the moment they are brought and shown to him, he says they are identical with those the man had on. Now, we show these clothes are his, and were given by his sister Maria to Officer Brainard. We show by several witnesses that, on the day he was in Springteed's store, his dress was as described by Burroughs—a blue coat and plush cap; and you can judge for yourselves as to the description of the face and hair. So, gentlemen, we have his identity perfect. He rushes into the store, and asks for a sixpence worth of aconite. Burrroughs waits on him, as he seems to be in a hurry, and the aconite is got, and he goes off.

We have it in proof, also, that he was seen at Wood's drug store. Now what was he after? Why was this man prowling around the drug stores in Albany? Has he given any explanation of it? None whatever.

Now I shall assume, on the evidence, as incontestible, that this man bought, on the week preceding the death of his wife, an ounce of aconite from Dr. Burroughs. I care nothing at all about the precise day, in regard to which a question has been raised. That amounts to nothing; and I wonder that counsel has been so tenacious about it. All I care to know is, that he bought aconite some day that week, and I assume it as incontestible that he did.

A doubt has been attempted to be thrown around the fact of his asking for prussic acid. Maria was called upon the stand to testify that she had asked prisoner to procure her some muriatic acid. Now, I do not believe a word of it—not one word; for the reason that, when pronouncing the word "muriatic," she did not pronounce it as one would who ever had heard of the thing before. (We are unable to give this idea as forcibly as did counsel. He pronounced the word "mu-ri-atic," emphasizing the syllables, as did Maria, different from the ordinary expression, and argued upon this fact that she knew nothing of it; that the story was coined.) And then, gentlemen, you see she knew nothing at all about its color or its qualities. She was going to apply it to her teeth in its raw state; this, one of the most powerful solvents known to the chemical world. She knew nothing about the mode of preparation, nor, indeed, that it required to be very largely diluted in order to be even touched by the hand or the teeth with any degree of safety. It cannot be retained in any vessel other than glass,

and even glass vessels must be corked with glass to retain it. Whatever it touches it destroys; and so long as it exerts its specific effect on bodies, it acts according to its nature as a solvent. If Maria had really desired a tooth wash, she would have sent to the druggist for the article she wanted, and would have depended on his superior knowledge to prepare it for its appropriate purpose. And yet this silly girl would have you believe that she sent for this powerful solvent as a tooth wash! Now, gentlemen, do you believe it? Does not this, of itself, show that it was a got-up story, manufactured out of whole cloth, for the purpose of throwing a doubt around the fatal fact we have proved?

There is an established rule of law, founded in good sense, that, where fabricated testimony is introduced in behalf of a party, it should, on discovery, be held and construed against him. And this, gentlemen, is not the only element of falsehood in this case. It has pervaded not only the testimony but the argument of counsel.

The next incident, tending to connect the prisoner with this murder and to furnish evidence of his guilt, is the matter of the lights; unimportant if seen after the family was said to have been aroused; all-important if before.

On this subject, we call five witnesses, viz: Wendell Oliver, Mr. and Mrs. Meads, Patrick Casserly and Aaron Palmatier; although I ought not to regard Oliver as a witness on either side of the contested point of *time*, and shall treat his testimony as important only so far as it relates to seeing the light, and the *place* where he saw it.

(Counsel here read from the testimony of Oliver.) Now Oliver, I admit, was not in Dr. Salisbury's laboratory, but he had been in the office of prisoner's counsel, and he was evidently disposed to remember no more than he could conveniently.

You remember, gentlemen, with what pertinacity we tried to get the truth from him; but we did not know, at the time, he was the lover of Miss Haswell, the sister of the sister-in-law of prisoner; we did not know this fact then. (Counsel here read Oliver's testimony.)

Now, where did he see this light? There was a strong effort made by counsel to make him see it in the lower room, but he would not swear positively as to where he did see it, whether above or below.

He did, however, swear that he had no recollection of seeing it in the lower window; and he further testified that he thought it must have been in the upper windows, because it was elevated from the ground.

But I shall leave it to you to judge, after having heard the evidence in regard to it, where he did see it; and I think you will assume, with me, that it was from the upper room.

Now, then, at what time was it?—1½ A. M.? Mr. and Mrs. Meads both swear, together with Casserly, that their clock, which was an hour too fast, struck two just before Oliver came there. Oliver does not undertake to say what time it was. He said he stopped at Meads' a few moments, on his way from Haswells, and that, on going up stairs, after he got home, he heard the clock strike three; but he does not say how long it took him to put out his horse, nor how long (for he says the night was cold) he sat down to warm himself.

There is, therefore, no necessary conflict between Oliver and the other witnesses for the prosecution on this question of *time*; and when evidence, apparently in conflict, can be reasonably reconciled by the jury, it is their duty so to reconcile it.

You have, also, the evidence of Mr. Palmatier, who was at Meads' when Oliver came, and he swears that he heard the clock strike two, which would make the true time one—just before Oliver came there.

To rebut the irresistible presumption which must arise from the fact of a light being seen in that room, an hour or more before the family was aroused, the defence has produced Miss Louisa Haswell, who, young and beautiful as she is, could not refrain from exhibiting her feelings towards opposing counsel. She says she heard their clock strike two, and that it was some fifteen or twenty minutes afterwards that Oliver left. If the family were called about two o'clock, as all the witnesses seem to agree, then Matthew reached Mr. Meads' about half-past two. If Oliver left Haswell's 15 or 20 minutes after two, he also must have arrived at Mr. Meads' about half-past two, or about the same time with Matthew; but Mr. and Mrs. Meads and Casserly concur in saying that Oliver had been gone about an hour and a half when Matthew came. The time fixed by Mr. and Mrs. Meads is somewhat confirmed by the fact that, allowing for the time required to get up, dress, and prepare to accompany Matthew, it would bring them to Hendrickson's about 3 o'clock, at which time they in fact arrived there. I have no doubt that the witnesses for the prosecution have established the true time at which Oliver saw the light, at about 1 o'clock; and it must be borne in mind that the witnesses to shake this theory are the mother-in-law and the sister-in-law of Matthew Hendrickson.

I infer from all this that there was a light up stairs. I say that that light was from the burning of the candle, during the deed of murder, and while the prisoner was busy

obliterating its marks. And if it is established that there was a light seen in that room at that hour of the night, you will concur with me in saying that it is a most important circumstance in this case.

That was a dreadful night in that house. Were it to have happened in centuries past, that house would be shunned as infested by the spirit of the dead. Groans would be heard there—the groans of the dying, of the young, the beautiful, and the betrayed. And (continued counsel, impressively) I would like to know if groans were *not heard there*, that darkest night, and if those groans will not be heard ringing in the ears, long after this scene shall have passed away?

It is always admissible, on questions of this nature, to show the state of feeling existing between the parties; and to prove ill-will, settled animosity, or harsh treatment on the part of the accused towards the deceased. Such evidence is what is termed moral evidence, and is legitimate, as a foundation for certain presumptions which very naturally arise out of it. To this end we have called the mother of the deceased

The counsel, you remember, made a flourish of trumpets, and another clap-trap offer in regard to this matter of treatment. Who would be likely to know best about it? We do not expect to get any facts from his family, nor from those friends and relatives who have only seen them together occasionally, and when it was not to be expected that any signs of unkindness or ill treatment would be displayed. We get the facts from the mother who watched over, loved her, and knew her best.

By the mother, we expose the privacy of domestic life. We draw aside the veil which hides the secret acts of this husband from the gaze of the world. We see him as he is, and are able to fathom the dark spirit which sat brooding at his heart, and prompted to those deeds of violence and injustice, a part of which a mother's watchful eye was able to detect. From what we know, we are able to infer that his conduct in those more secret hours, hidden from all eyes (save *one*), was brutal in the extreme

The first thing I shall refer to is the Jane Bailey transaction, which happened but a few months after prisoner's marriage. Counsel has made very light of this. But I ask you how any wife would feel on discovering, by means of a letter from his victim, a husband's infidelity? Does this not furnish evidence of deep and innate depravity? The counsel may think it very trivial to prattle around, within four or five months of one's marriage, seducing innocent and unsuspecting girls. Was an act like this commendable? Or was it not calculated to create unkind and unhappy feelings? What wife but would, on such proof of infidelity, upbraid her husband, and feel that he had begun to lose his affection for her?

I ask you again, gentlemen, if this man loved his wife as truly as has been said, if he had possessed one honorable or manly feeling towards her, would he have communicated to her the foul disease which the evidence has disclosed? Was this an evidence of respect or affection? Was this calculated to create the kindly feelings spoken of? Next we find him at a ball, without his wife. Why did she not go? Because she was ill. If ill, where was the appropriate place of an affectionate husband? Was it at the side of her couch of sickness, ministering to her wants, and, by tender and affectionate deportment, rendering the dull hours of anguish more endurable, or was it amid the revelry and dissipation of the ball room? But we find him carrying on a most energetic flirtation with that Maria Schoonmaker, whom you saw on the witnesses' stand. If I were to judge of this girl's character by her countenance and deportment, I should have no hesitation in saying and believing that she is just the girl to please the taste of every libidinous scoundrel in the land who might chance to sit beside her. Is this common, gentlemen, where affection exists, to go to a ball, leave your wife lying sick at home, and you enjoying its festivities? I do not think it is a very ordinary thing, nor do I think it an act that you would construe as indicative of affection.

If his giving this girl, this Maria Schoonmaker, his daguerreotype and ring was, as she says, only "a joke," why was it they were kept by her so long? Then this fact gets to the wife, and again is there unhappiness created.

Then, as to the buffalo robe and whip; I care not whether they were stolen or not. She thought they were, and being a high-minded woman, possessing virtue and integrity, she sought to reason with him, and prevent him from committing such crimes again.

She labored to induce him to retrace his steps; to abstain from the commission of petty crimes, and to regain his lost reputation. She could not endure the disgrace which, as his wife, attached to her in consequence of his reckless depravity; and most faithfully she exhorted him to a better course of life. How these admonitions were used and requited, you have heard.

Gentlemen, the remark made by the deceased to her mother, when they were leaving Mrs. Van Dusen's to return to Hendrickson's, allows us to obtain, at a single glance, the every-day history of her domestic life: "I have not received my *blessing*

yet." "*Blessing?*" inquired the anxious mother, "what do you mean by that?" In explanation, she said that he was in the habit of swearing at her daily. It is this system of habitual petty annoyances which, with the truthfulness of nature, reveals the true state of the heart, and speaks volumes which the tongue never dares to utter.

If any one thing, more than another, exhibits the cold indifference, the hard-hearted obduracy of this prisoner towards his wife, it was the incident of the cut finger. It appears she had cut her finger during the day, and had applied sticking plaster to the wound. In the evening, as they were sitting on the bed, she took off the plaster. He punched her severely in the side, and called her "a damned fool." She cried; said he had hurt her, and told him he had better not hurt her so again. He answered, like an obdurate, hardened man, "I'll do as I please about it;" and the conduct was so marked, that another party in the room remarked that "if things went on so now, she did not know how it would be when they went to house-keeping." To this the prisoner replied, "By G—d, she will have to turn over a new leaf before that happens." Was all this the conduct of a kind-hearted man? Was it not just the act of a man who would pour poison down her throat?

In regard to the conversation testified to by Mrs. Van Dusen, where the prisoner asked his wife if he should get her some medicine, and she answered no, that he had at one time brought her some poison, and she burnt it up—in regard to this, I do not attach as much importance to the word "poison," as does my associate counsel. It may have some weight or it may not, and therefore I shall not urge what I do not firmly believe. It may have been used merely in reference to medicine which he had got for her, or it may mean that he really had at one time brought her poison. I shall leave you to draw your own conclusions upon it.

Now, the defence call upon David B. Haswell to prove something which, it strikes me, weighs strongly against the prisoner, and which I shall so use. According to this man's evidence, we find the prisoner at a ball, dancing with this Miss Schoonmaker; his wife, poor woman, is sick in an adjoining room. Where was his place but at her side? But he is found gaily "tripping the light fantastic toe." I apprehend, had he been a man of ordinary feelings, he would have been found at once by her side, and not have waited until he was sent for. The remark she made, which this Haswell is used for the purpose of swearing to, that "no physician could do her any good," was full of significance. She was still laboring under the effects of the disease he had so basely communicated to her, she had but a short time before seen the proof of his infidelity in this letter from Miss Baily, and at this ball she had seen him flirting and dancing with this Maria Schoonmaker; and, from all these causes, hers was indeed a disease in which no physician could aid her. It was the disease of a broken heart, the cry of unrequited affection.

And what did prisoner do? Why, he let his wife, sick as she was, go home without him, and he remained, still flirting with this Maria Schoonmaker. And all these facts are paraded here as an evidence of that man's affection!

It we have shown that this prisoner committed this murder, the law does not require us to establish the motive; no matter what motive induced the act, if he in truth committed the deed. The motive in every case of murder, if indeed it is apparent at all, is gathered from the circumstances—often inadequate enough, and sometimes so trifling as to astonish us. Webster committed his great crime to rid himself of the petty annoyance of a troublesome creditor. Colt, to settle a dispute about the printing of a few books; and Dunbar, to remove the murdered children out of his path to the inheritance.

We can, in this case, easily imagine motives of vastly more potency than existed in either of the cases I have mentioned. His wife had become irksome to him. Her reproofs, her sterling character, her piety, the integrity of her nature, interposed barriers to the indulgence of his base appetites and passions. To these it was irksome for him to listen; and, doubtless, it was these admirable qualities of this woman, of noble soul, that prompted the wish in his heart to remove her from his crime-stained path. Again, his own vile habits of roving and promiscuous indulgence had engendered an utter distaste of the quiet and comforts of domestic life:

"Ach! it hardens a' within,
And petrifies the feeling."

Again, it is believed that the post mortem examination revealed physical difficulties to the gratification of his inordinate lust; the organs of generation were extensively enlarged and diseased, and the power to minister to his unrestrained passions was, beyond all doubt, greatly impaired, if not altogether destroyed; and this, to a lustful and depraved young man, was motive enough. Gentlemen, however distasteful subjects of this nature may be to us, our duty requires us not only to consider them but to speak of them.

Again, gentlemen, from the evidence in this case it is fair to presume that, when the prisoner married the daughter of Mr. Van Dusen, he entertained expectations of pecuniary advantages from the connection. Mr. Van Dusen was reputed to be a man of wealth; but the prisoner, by his unworthy conduct, soon forfeited the esteem, and even the forbearance of his father-in-law, and he was soon driven from his house. When the will of Mr. Van Dusen became known, he found himself cut off—the widow having received a life estate in all the property, real and personal. You saw that widow on the stand, gentlemen—a hale, vigorous woman, of about 50 or 55 years, of good constitution, and as likely to live for a period of 25 or 30 years as any person in this court house. She had, by letting the farm to a stranger, intimated to him that he had nothing to expect from her during her life; and, after her death, he found one-fourth of the property devised to his wife, in her right, and thus placed beyond his control. Thus irritated and disappointed, his base nature was goaded on to revenge, and it induced him to rid himself of an incumbrance by the destruction of his wife.

We now approach a most important branch of our inquiry, which, as you will bear in mind, relates to the connection of this prisoner with this murder. I allude to the remarks made by the prisoner to Stephen Van Dusen, Mr. Ale, and his mother. I confess that I think what he said at the time of the post mortem examination is fully as strong as the medical and chemical testimony. It betrayed the guilt which was concealed in his heart. We called and examined Stephen Van Dusen, who was dismissed by counsel with a kind of "*ad captandum*" go, but I think he would have borne a cross-examination. When Stephen first saw prisoner, he was sitting down, with his head on his hand. This was at Mrs. Van Dusen's. He went into the room where his sister lay, and, on returning, prisoner had gone out. Stephen followed, and found him in the wood shed. Here was a conversation about the wood; and on Stephen remarking that it ought to be cut up, prisoner said that "little Law (his brother-in-law) was too damned lazy to do it." Was this an expression for an honest man, at the time his wife lay dead in the house?

The next remark of importance is his asking Stephen to go in and see what they (the physicians) were doing, and also see if they would not allow Dr. Springstead, president. On Stephen's returning, and when within three or four feet of the prisoner, the latter exclaimed, "What are they doing? What have they found?" Now, this remark is significant. What did he expect they would find, if he did not think poison? Stephen told him he did not know that they had found anything; when he replied, "One thing I know, they won't find arsenic." Had there been one word passed about poison before this? Had there been anything said which should have aroused such a remark? Now, was not that the crying of the murdered from the ground? the utterings of a guilty, stricken conscience? Murder will out, and in such cases as this Omnipotent Wisdom effects the revelation; and this man's conscience was then crying, "I murdered my wife! It was I who murdered her!"

Now, as to the conversation with Ale. Mr. Ale informs us that on the 9th of March he went with the sheriff to arrest the prisoner. Himself, the sheriff and the prisoner were sitting together in silence. At length the prisoner started up, and asked if they had found any poison. There had at this time been no reference whatever to the subject of poison. Mr. Ale answered that he did not know; he believed they had not got through yet. The prisoner then asked this most remarkable question: "If they put poison in her stomach yesterday, can they discover it to-day?" Now, gentlemen, I ask you if any innocent man would presuppose the case suggested here by prisoner? There is no way to get over it. We can only say he felt, in his soul, his damning guilt, and that in these words were his confession and his condemnation.

Gentlemen, are not these expressions stronger than were those of Webster, when told they had found the body of Dr. Parkman? "What!" exclaimed he, "*the whole of it?*" Were they not stronger than Dunbar's, when told the children had been found? "*Have they found both bodies?*" Remarks like these are such as nature extorts from crime.

Now, this man's account of the death of his wife is a strange one. He tells two different stories to Stephen Van Dusen, both in a careless, unconcerned way, as though no wife were dead, and as though she were not then lying unburied beneath her mother's roof. It will be remembered that Van Dusen and the prisoner went from the wood house to the barn, and in a short conversation at the barn he gives two relations of the manner of the death of his wife. In one he says they went to bed at ten o'clock and he woke up at two; and in the other, told but a very short time after, that they went to bed at eleven o'clock and he woke up at three. If the story was true at all, there would have been no difficulty in making it a straight and consistent one.

Now, as to his examination before the coroner's jury, though it reveals matters which are falsehoods in themselves, yet they act as truths in this case. Here he denied being in any drug store in the city the week preceding his wife's death; and when the inquiry was made whether he had been in a drug store in Albany, he gave a singular start,

which betrayed alarm. Now, he had been in one, as has been clearly proved. Gentlemen, when a party raises a falsehood in a case, it is a presumption against him. Why did he deny it? Because he already felt that his crime was suspected, because then the image of his murdered wife came up before him, because he felt that it was a telling fact against him!

(Counsel here read from Russell on Crime as to the fabrication of testimony, and the weight it would have against parties using it.)

Gentlemen, I ask you to look at this, because I shall show you not only false elements in the testimony, but also in the arguments, conclusions and assertions of counsel.

First, gentlemen, the matter of that sore lip is a fabrication; it was all false. That was not the sore she is said to have complained of, and those who swore to it knew so. It was all false, from beginning to end; and this bruise is alone accounted for as I have before stated to you.

The second fabrication was that in relation to John's speaking to his mother in the room in regard to his wife's death. All the witnesses, Matthew, his wife and Maria, say that no questions were asked, and that not a word was heard there or said about it. I saw it was a fabrication; and I verily believe; if the old lady had been called when Maria was, we would have heard nothing of it. But after her examination it was found necessary to patch up something to cover the weak point exposed, and the old lady is made to remember this conversation.

Another fabrication is about prisoner not being in town on Tuesday, and to prove the falsehood we have three disinterested witnesses. Shall we believe them, or shall we believe those relatives who stand in such a peculiar situation in regard to the prisoner, and who are again brought on the stand, and at a late hour, to swear to it?

Another fabrication, and this also attempted to be proved at a late stage, was the statement of Matthew, that the day himself and prisoner were in town together, he left prisoner in front of Springstead's drug store, and went on to the widow Hendrickson's in Pearl-st., where, in about five minutes, he was again joined by the prisoner. Now, I say that the prisoner did not go at all to the widow Hendrickson's, or within any such time as Matthew says, for he was seen to come out of the store and go up Pearl-street, and could not have met Matthew within many minutes of that time.

Now, gentlemen, as to the matter of prisoner's wife eating her meals on the last Sunday. From all the evidence in regard to this, it is very clear that they desire to create a false impression as to her state of health; but it has failed to leave any conviction on my mind that she did not eat her usual meals, and I think it has also failed to satisfy you of its truth. And here, gentlemen, let me ask you if you have any confidence in that orange story? It was brought out at a late hour, to serve as a dessert to this meal of falsehood. Maria was called to the stand, almost at the last moment, to swear to her eating that piece of orange, in order to account for the seed which looked like that of a lemon, and which was found in the colon. On she comes, always ready, and able too, and swears that part of an orange was eaten Sunday morning. It may be true, but it did not look like truth.

Now, gentlemen, if there is any hypothesis by which this man can be innocent, I should rejoice to see it; but there is no way; there is not a crevice through which a ray of innocence can be seen.

What is their answer to our medical testimony? Of all the members of the medical profession in this city, Barent P. Staats is found to be the only man who is to dispute the unimpeachable testimony of Dr. Swinburne. Gentlemen, if there is another medical man who would come forward, I ask the counsel how he can ever excuse his conscience in not having called him—in not thus having discharged his whole duty to his client?

Who is Barent P. Staats? I have known him for some time, and am sorry he has made a display of his talents here, and that he made such a poor show of it. Why, gentlemen, this man didn't know the names of the organs we were talking about; "*je-jen-num*" and "*ili-on*" was what he called the jejunum and ileum. He didn't even know where the gall bladder was situated; did not know as much about the location of this important organ as does the butcher or farmer who slaughters his hogs, sheep, and other domestic animals for food. The theory of Dr. Staats, with regard to the functions and office of the gall bladder and the liver, is a remarkable specimen of professional profundity, in its way. The good Dr. has kindly informed us that the gall bladder is a kind of safety fund, where the bile is stored for future use. I certainly should not quarrel with the Dr. if he had been content to leave his theory at this point; but apprehending that he might be a little puzzled to account for the empty state of his safety fund, unless it had been emptied by the muscular contraction which attends severe vomiting, the Dr. with great confidence asserted that in many cases the bile does not stop in the gall bladder at all, on its way from the liver to the duodenum, but flows directly on to the latter organ; and this condition the Dr. says is perfectly consistent with a state of health. It struck me, gentlemen, that this cunning contrivance of a

gall bladder was a work of supererogation, and that the animals of this world would be just as well off without one.

Again, the amiable doctor, doubtless commiserating the heightened condition of this generation, told us that the jejunum, or je-jum-m, as he called it, was always empty; that its very name implied *emptiness*. But, said I to the learned savan, the food passes through it, does it not? O! yes, said he. How does it get through, I asked; does it *jump* through? I don't know, said he; but I know that it is always empty, and that the muscular coat is much stronger in it than in the ileum. But, gentlemen, the acme of professional intelligence was reached when this man of uncommon acquirements gravely informed us that muriatic acid was in common use *in the country* as a tooth wash. Now, gentlemen I will venture the assertion that Dr Staats never heard of this cruel absurdity; and if he was the inventor of the story, to entrain poor Maria he is certainly very much to blame. The doctor probably fell into an unpardonable blunder, having mistaken muriatic for tartaric acid, which might very safely be used for a tooth wash. This is the man, gentlemen, by whom our really scientific and ingenious friend, D. Swinburne, was to have been overthrown. How far the attempt has proved successful, you will judge.

Adjourned till 3 P. M.

AFTERNOON SESSION.

Attorney-General CHATFIELD resumed.

When the court took a recess at noon, gentlemen, I was examining the evidence of Dr. Staats, and having disposed of such of his opinions and theories as are claimed to be favorable to the prisoner, I proceed to show, from the remainder of his testimony, that there is really no conflict between him and Dr. Swinburne, and that, in the main, Staats fully corroborates Swinburne. He says he supposed he was called simply to prove that this woman could not have vomited, to the extent claimed, without being heard in every part of the house. But having found himself on the stand, he ventured the opinion that she did not vomit at all. But, gentlemen, on cross-examination the Doctor was compelled to admit, and did admit, that he knew of no natural disease that would put on these appearances, without vomiting; and, indeed, that he knew of no natural disease in which they would all be present. He discarded the idea of idiopathic inflammation of the stomach as untenable, and distinctly admitted that acute gastritis was always referable to the presence of an irritant; that the appearances in this case indicated vomiting and the presence of an irritant; and that they were all consistent with the hypothesis of death by an irritant poison. Having utterly failed to show that they are consistent with any other hypothesis, I think we may enroll Dr. Staats by the side of Dr. Swinburne, and claim that his evidence sustains the prosecution. He gave us several causes of sudden death, where, on dissection, no trace of disease could be discovered, and instanced apoplexy, drowning, death by lightning, delirium tremens, sun stroke, and death by the fatal emotions of sudden fear and joy. But in all these cases he said all the organs of the abdominal cavity would be found in a normal state. Although the Doctor ventured an opinion that he should as soon attribute this death to the opacity and adhesion of the arachnoid membrane as to the diseased condition of the stomach and intestines, yet, when he was obliged to admit that, if the cause of death had been found in the cerebral membranes, he should expect to find the abdominal viscera healthy! He could not fail to see that his theory could not be sustained. On the whole, then, gentlemen, I think I may confidently claim that, in all the material facts, Dr. Staats fully corroborates our medical evidence, and that his testimony does not furnish my learned adversary with a hook to hang a doubt on.

Having disposed of the prisoner's answer to our medical evidence, I shall now proceed to an examination of their answer to our chemical testimony. The first witness produced is Professor Reid, of New-York. If he has given us a correct account of his antecedents, we should be induced to believe that his opportunities for acquiring a fund of correct chemical knowledge had been remarkably good. He informs us that he was born in Edinburgh, Scotland, but at exactly what period he does not know, for he was unable to tell us his age; that in his youth he had charge, as assistant, of the laboratory of the University of Edinburgh; that he was engaged, under the direction of his brother, Professor Reid, in organic chemistry; but owing to a desire on the part of his father that an older brother should take his place, he became offended, quit the university, and came to America. Since that period, he says, he has been Professor of Chemistry in the College of Pharmacy, in New-York, about seven years, and for seven years more Chemical Lecturer in the New-York Hospital, and is at this time Professor of Chemistry in the Penn Medical College of Pennsylvania. You have here, gentlemen, a man who has been for fourteen years a chemical lecturer—ah! lecturer! and, strange to say, the only thing he ever wrote on the subject of chemistry was a formula for compounding "*blue pill*!" Astonishing achievement! He has really written a recipe for making *blue pill*—a thing within the comprehension of the simplest shepherd boy in the country.

But he is introduced to overthrow our modest and scientific fellow-citizen, Dr. Salisbury, and we shall see how far he has succeeded in the attempt. He sets out with the opinion that the chemical tests of Doctor Salisbury are fallacious, and not to be relied on at all, for the reason, as he says, that the three acids change almost all organic bodies to the same colors that they do aconite. How does he know? He certainly has never experimented with aconite, unless he calls the farce he performed in New-York, after being called on in this case, an experiment. What was that experiment? Why he went to a drug store, procured one-eighth of a grain of aconitine, divided it into four parts, took one of these parts and dissolved it in drops of alcohol, but how many drops he does not tell us; added thirty drops of water, and to this mixture added two or three drops of sulphuric acid, boiled it, but obtained no color. Now, gentlemen, was not this experiment made with a deliberate intention not to obtain any result? *Two or three drops of sulphuric acid to thirty or forty of liquid!* As well might you expect to set the North river on fire by rolling the burly form of the oleaginous Scot into it. Whether he used a test tube or a skillet, he does not inform us. And when I asked him, "Why did you not add more of the acid?" he replied, "I was afraid of burning it up." *Burning it up, forsooth!* The very thing, of all others, he should have sought for—for the change of color is produced by carbonization alone, by burning or charring. With this sublime experiment the Professor rested contented, not using the hydrochloric or nitric acids. Now, gentlemen, I am willing to submit it to you to say how far this experiment tends to shake the full, complete and nicely accurate experiment described by Dr. Salisbury.

But the learned professor is no better satisfied with Dr Salisbury's chemical analysis than with his chemical tests; and first, because taste is uncertain, varying in different individuals, and not to be relied

on at all, sir; and second, because by digesting in alcohol, and subjecting the substances to heat, you throw in a powerful chemical force, that, by chemical changes, may generate new bodies liable to mislead; and third, by distilling with potassa a new poisonous substance may yet be generated. On cross-examination I endeavored to obtain from the professor a reason for the hope that was in him, and it all resulted in this: that by Dr. Salisbury's first process, prussic acid could be procured, provided you carried the heat to a white heat; but that at 212° Fahrenheit it was impossible to decompose the potassa, so as to throw over any new chemical combination, and that, by digesting over a water bath, a point beyond 212° could not be reached. And the Professor was compelled to admit that he knew of no other poison within the whole range of the material world, except prussic acid, which could be generated by Dr. Salisbury's process by distillation; so his two objections to that process ended in smoke. His objection to the other process was detected the presence of aconite? His answer was, I should have taken the stomach and other parts used by Dr. Salisbury, digested them in alcohol in a sand bath, added sulphuric acid, and then *tasted*, and if I obtained the acid, tingling *taste*, I should infer the presence of aconite. Yes, the Professor would *taste* of this most offensive mass, and expect to be able to obtain the characteristic *taste* of aconite; at all events he would depend exclusively on his *taste*. He said he should then make up a fictitious mass of meat, fat, &c., as nearly resembling his first mass as possible, digest as before, add a little of the tincture of aconite, and then *taste*, and if he obtained the acid, tingling taste, he should consider that aconite was present; if he did not obtain it he should go no further. You see, gentlemen, that he depends exclusively on his *taste* again. If the Doctor had found the aconite in his fictitious mass, he does not say that he should go any further; and we are certainly led to suppose that the Professor has given us the whole of the *analysis* which he should employ as a chemist, if called on to analyze the viscera of a person suspected of being poisoned. I could not forbear thinking, gentlemen, that the Professor had made up his "*fictitious* mass," before leaving New-York, and had brought it here to retail on the stand.

In order to satisfy us that he was acquainted with this vegetable poison, the Dr. informs us that about eight years ago he obtained from a pound of the root of aconite about a grain of aconitine; and that he employed Dr. Salisbury's second process in obtaining it, with this difference, that he used unpurified animal charcoal instead of purified. I asked him if he was certain that he obtained aconitine; he said he had no doubt of it. How did you ascertain, Dr., that what you obtained *was* aconitine? Why, said he, by the *taste*, and by that alone. Here the Doctor had no hesitation in relying on what he had before said he would not rely on at all! and indeed, so exquisitely delicate is the taste of Dr. Reid, that he found no difficulty in detecting the one-three-thousandth part of a grain of aconitine by it. To dispose of the confirmation of the analysis, by administering the precipitate obtained by Dr. Salisbury to the cat, the Professor says that having been digested in alcohol threw a positive uncertainty over the whole proceeding; and that the effect of alcohol and aconite on minerals is the same, although the one is a narcotic and the other a stimulant. But the Dr. says he never administered aconite or saw it administered to an animal, although he did once see bread and alcohol given by some children in Scotland to a kitten.

Gentlemen, I think you will agree with me in saying that this is a fair analysis of the testimony of this redoubtable chemist, and that it does not in the slightest degree tend to throw doubt on the infinitely more intelligent evidence of Dr. Salisbury.

I cannot dismiss the learned Professor without adding a word with regard to his position in this case. It seems that the uncle of the prisoner called on him in New-York to procure his attendance here as a witness, and inquired of him the price he was in the habit of receiving for attending the criminal courts in New-York as a witness. The Professor stated the price, and messenger said "there would be no difficulty on that score;" but the Professor was quite too virtuous to accept of money for such a service, although he did receive \$25 with the subpoena. But he said he should obtain compensation from the county—should charge his services to the county, although he was a witness for the prisoner.

I desire to give offence to none; but I will take this occasion to say that our friends across the water cannot abate one iota of their habitual contempt of Yankeeism. An Englishman or a Scotchman cannot conceive that it is possible for a Yankee to know anything; and although we have beaten them in every department of useful knowledge—beaten them on the land and on the sea—by wind and by steam—in the field and in the mill—by lightning and by railroad—they still cling to that old-time pride of opium, and hug the comfortable delusion that a live Yankee is an ignoramus. This examination has shown that, in the science of chemistry, our Yankee *boy* as far outstrips the Edinburgh Professor as do the Coli-us steamers the Cunard line.

Having disposed of Professor Reid, I come now to the examination of the testimony of the other learned professor, Dr. Emmons. I am unable to divine the cause of the extraordinary interest which the Doctor admits he has taken in this case. So intense has been that interest, that he has not hesitated to swallow almost fatal doses of this subtle poison, in order, as he says, to note its effects on the human system. He, too, was visited by an offer of *compensation*, although, like Dr. Reid, he rejected the offer. May there not be a latent cause for this deep interest, not apparent on the surface, and yet which is potential with the Doctor? It is known that Dr. Emmons once had charge of the State laboratory, and that Dr. Salisbury now sits in his place; that this change was produced by the preference given by the State Agricultural Society to Dr. Salisbury. These occurrences have not tended to increase the kindly feelings entertained by Dr. Emmons towards Dr. Salisbury.

Gentlemen, Dr. Emmons has certainly given us some new ideas of ourselves. He tells us that a man has an animal and a vegetable life; and I submit it to you whether the good Doctor has not, in his own person as a witness on the stand, given us a practical illustration of the precise period in human life at which the *animal* life ceases and the vegetable begins? It is truly said, by a wiser man than myself, that when great men become fools they are very great fools. What was his appearance on that stand? You remember how he evaded every question put to him, how he backed and filled, and how, by his answers, he sought to make a false impression upon your mind. How different it was to the manly, frank course of Drs. Salisbury and Swinburne; no attempt to shrink or evade here, no qualifying or equivocating when they were on the stand, either in direct or cross-examination. I assert again, and you will bear me out in it, that there was not one of my questions but what he sought to evade—not one.

I would not be unjust towards Professor Emmons. But I am quite satisfied that *all* the experiments made by him are utterly worthless. Let us examine not only his *tests* but his *analysis*. In order to ascertain whether color could be obtained by testing with the acids, he procured a quantity of aconitine at Dexter's, which Mr. Dexter informed him was not of good quality, and to about one-fifth of a grain of this spurious article he added water, acidulated with sulphuric acid, and *warmed* it, but obtained no color. He should not have expected success from such an experiment; first, because his aconitine was spurious. (Counsel here read from *Perrin*, to show that a spurious article was commonly found in the shops, and that the only genuine article was Morson's aconitine.) Mr. Dexter told him that it was not Morson's, and was not the high-priced aconitine. His premises were therefore wrong, and this should invalidate the whole experiment. But, secondly, he did not *boil*; without this he could not obtain color in the short period employed by him in making the experiment.

His experiment with Burroughs' tincture was equally unsatisfactory. The tincture of aconitine is of a dark brown color. The Doctor says that, in order to deprive it of its color, he passed it through animal charcoal, but did not succeed in removing the coloring matter. The liquid was red which he used in

his test; he added sulphuric acid, but it still retained its color. Now, gentlemen, Doctor Salisbury informs us that the color obtained by sulphuric acid and aconite is a deep port-wine red color; but, in order to procure this, you must *boil*. If merely *warming* the materials would give you any color at all, it would be a light red, the very color of the material when the Doctor commenced his experiment. It is easy to see that this experiment was a most clumsy contrivance, and wholly unsatisfactory. Again, the Doctor, like Dr. Reid, only employed one acid, whereas Dr. Salisbury informs us that the use of the three acids is indispensable to obtain the *indications* of aconite spoken of by him.

In speaking of the analysis, Dr. Emmons frankly admits that he has no knowledge of Dr. Salisbury's *first process*. He says he attempted to obtain aconite from one-fourth of an ounce of Burroughs' tincture, but did not succeed. I submit it to you, gentlemen, to say whether he should have expected success; for not a step was taken calculated to insure success. He began wrong, and blundered from the beginning to the end. He did not purify his animal charcoal; and this, being composed of calcined bones, hair and animal matters, was full of phosphates and other impurities, which would absorb the alkaloid, and probably leave him little or no precipitate at the end of his experiment. But the most fatal error was filtering after he had added his soda for the last time—a most singular performance, indeed. But, if his process had been conducted according to the most scientific principles, it was hurried through in a few hours, rendering a favorable result utterly impossible. Dr. Salisbury gave us a most convincing reason for the opinion expressed by him, that aconite cannot be obtained from the tincture in a shorter period than three days; and yet Dr. Emmons did not exceed twelve hours in his entire experiment.

Gentlemen, it is obvious that experiments like these cannot, in the slightest degree, affect the credibility of the highly interesting and satisfactory experiments made by Dr. Salisbury. Based on these clumsy performances, Dr. Emmons has given us a series of opinions, tending to throw doubt over the theory of the prosecution; but, inasmuch as he says that he has no knowledge whatever of aconite, except what was derived from these experiments, I think we can dismiss those opinions as utterly worthless.

But I cannot dismiss the Doctor himself thus summarily, for he has been compelled to express certain other opinions which I deem of importance in the case. He has told us that aconite is a fixed body, that it is an acid, an irritant poison, and an alkaloid; and that chemists are, by a series of experiments, able to determine the presence of the alkaloids with certainty; that he would depend on *taste* to detect the presence of aconite; and, as a doctor of medicine, he says, after much twisting and doubling, that the appearances which were present in the stomach and intestines of the deceased accompany violent vomiting, and furnish evidence of vomiting. He also says that, although the appearance of the stomach and bowels might be explained without supposing the presence of an irritant, he could not explain how, but was compelled to admit that he knew of no disease which could produce it, and added, that the viscid mucus, tinged with blood, certainly indicated the presence of an irritant. He also says that congestion and contraction of the stomach and intestines, and emptiness of the small intestines, might be produced without an irritant; but he cannot tell how, and admits that he never saw, heard or read of a case of the kind. He thinks redness and vascularity of the stomach might be produced by exposure to severe cold, extensive burns, broken limbs, and injuries producing general disturbance of the system, and fever; but inasmuch as it is manifest that none of these causes existed in this case, and the Doctor admitting that he knew of no others where such appearances might be expected, without the presence of an irritant, I think we may safely assume that the result of the Doctor's medical opinion is, that this woman must have taken some irritant, and that she vomited.

This, gentlemen, completes the prisoner's answer to the medical and chemical evidence which we have adduced; and I am constrained to say that at every step it has added immeasurably to the overwhelming strength of the case against him. I have now, gentlemen, gone through with the material parts of this case, with the exception of some answers taken to views on the other side. (Counsel here referred to the supposition, advanced by the defence, that prisoner's wife had died of asphyxia, apoplexy, or cerebral inflammation, in each instance arguing that none of the post mortem appearances sustained it, and cited authorities in regard thereto.)

Now, gentlemen, I have gone through all the facts of this case, collecting and bringing together, as well as I could in my poor way, the evidence of the cause of death, and the evidence which connects this man with that death.

I do not know, gentlemen, but that I deceive myself in this case. I have no more interest in rising upon you the conviction of this man than have you in convicting him; we stand on the same ground. If I did not believe him guilty I could no more stand here to urge his conviction, than could you, believing so, sit there and convict him. But all the facts revealed, convince me that this man is guilty. I do not think any man can read this testimony, with an impartial mind, and not be satisfied of the prisoner's guilt. From all the evidence, I do not see how any one can escape such a conviction.

There is a single topic on which I will claim your attention as briefly as possible and I shall then commit his case to you, in whose hands are the issues of life and death.

I refer to the course which has been adopted by prisoner's counsel, in his address to the jury, to induce you to acquit this man on some issue not in this case.

First, he has charged the public prosecutor with undue zeal, great zeal, charged him with a zeal never witnessed before. Gentlemen, what has been the zeal of which such bitter complaint has been made? For what purpose do the people elect a public prosecutor? and what is expected of him when so elected? Is it expected that he shall conduct himself in a case of murder in such manner that there may some loophole be left, whereby the criminal may escape? Or is not the reverse what is both expected and insisted upon?

I am gratified in being able to say that, in this case, the public prosecutor has done his duty, his whole duty, and nothing more. When he fails to do this, I trust the public will write his condemnation; but so long as he goes forward, not overstepping his duty, but firmly adhering to it, so long will he be sustained.

This issue was made, gentlemen, in order to induce you to believe there was persecution here; and this issue having been thrown into the jury box, I am content to leave it there; for I am persuaded that you will agree with me that the district attorney has done no more than duty required of him, and that he has done that duty faithfully and well.

I have said but little in this case about the woman having vomited, because I think it not important. If that woman died of poison, and it was found in her stomach, the fact of the vomiting is of no possible importance. It is not material if poison was the cause of death, and if, as we say, we have proved it, that her husband gave it to her, then the case is settled without attaching any importance to this circumstance.

But in regard to the vomiting, I think there is no room for cavil or doubt; the fact is conclusively proven that she did vomit, and vomited violently.

(Mr. Chatfield here briefly reviewed the appearances which indicated the fact.)

Now, gentlemen, as to the mode of administering this poison. I trust we are not called upon to prove this. We say that the poison was forced down her throat; but, it is said, that the prisoner has not the strength to have done this. We suppose him to have placed himself across her body, with one leg on one side, and the other on the other, and her hands down by her sides, firmly held by his legs. With one hand he could hold her head as firmly as though it were in a vice, and with the other, force the poison into her throat. Hypolite de Bocarme forced a fatal dose of nicotine into the throat of a man, and Dr. Guy

informs us that poisons can easily be poured down the throat of a person while sleeping. The prisoner is a tall, vigorous, athletic man, and was fully competent to forcibly administer the *fatal poison* to a feeble woman.

As to the crying, screaming and noise she would have made, he might have held his hand over her mouth, or drawn the clothes over, and prevented it. Still she might have made a noise, even if it was not heard; and whether it was heard or not I leave to you.

Gentlemen, I have done my duty in this case. I desire to say to the jury that they are by the law required to convict a murderer, regardless of all personal feelings—of everything but the fact of guilt.

Murders are becoming alarmingly frequent in the community. Within a very recent period there have been six or seven in the city of New-York, awaiting the penalty of death. This mode of crime requires the most attention; this secret, deadly, almost undiscoverable means of taking life is of all others the most dangerous. Let this assassin escape, and will not your verdict advertise the world that murders are not only tolerable but justifiable, provided the murderer will take care to employ for the accomplishment of his hellish purpose a vegetable poison, difficult of detection? Will not your verdict be understood as promising impunity for crime? led

Gentlemen, I repeat, you are expected to do your duty. You are not to be affected by any such considerations as have been urged. It is true, you are to act with justice, tempered with mercy. But, gentlemen, let us not listen with too much humanity to this cry for mercy. Did not the agonizing cry of this man's victim for mercy, pity, on that dreadful night, fall on his story, obdurate heart in vain? Did he show pity in that dreadful hour, although it was the voice of a wife that called. Oh! she struggled in vain; for in the heart of her murderer there was no mercy.

Gentlemen, I hope and trust that in this case no kindred blood, if there is any on that jury, will have the effect of preventing a discharge of duty. It is no consideration for an acquittal. I make the remark at this stage, because I have heard there was such among you.

Gentlemen, I now leave the case with you.

The Attorney-General concluded his address on Wednesday, at 6 P. M.
Judge MARVIN at once proceeded to charge the jury.

JUDGE MARVIN'S CHARGE TO THE JURY.

Gentlemen: We have hesitated and consulted together for a moment touching the propriety of submitting this case to you this evening. Under all the circumstances, we think the more proper course is, after a few remarks, to commit the case finally to you, that you may at once enter upon your deliberations. It will not be expected now that I should go over the voluminous evidence in the case, nor do I deem it necessary. It has been ably reviewed and commented upon by counsel.

And again, in a jury composed of twelve men, it rarely if ever happens that any fact, material, escapes the recollection of all the jurors; if one or more shall have forgotten any fact, others will recollect it, and in the full discussions in the jury room all the facts will be brought under consideration. I shall, however, advert to some of the principal facts in the case, in connection with certain principles of law, and with a view of aiding you in your deliberations.

The object, and sole object, of a charge from the Court is, to aid and assist the jury in the proper mode of investigation; to lay down proper rules applicable to the case, and to the evidence in the particular cause.

You are in pursuit of truth; it is truth you have been searching for during three long weeks; and it is truth that you are, by your verdict, to pronounce, whatever its effect may be.

Gentlemen: This is undoubtedly an important case. It is alleged by the prosecution that a great crime has been committed; one of the highest crimes known to the law, and under very peculiar circumstances. If, indeed, a crime has been committed, it has been under peculiar circumstances.

On the other hand, the prisoner alleges not only his entire innocence of any crime, but all knowledge of the cause of the death of his wife. The question for you is, which of these allegations is true?

If the evidence is clear and satisfactory, producing conviction

upon your minds that the prisoner is guilty, you will proclaim that conviction by your verdict. If, on the contrary, the evidence is not clear and satisfactory, producing conviction upon your minds, beyond all reasonable doubt, you will so say by your verdict, and that verdict will be an acquittal. The evidence in this case is circumstantial. If a murder has been committed, no witness has appeared upon the stand to disclose to us directly the deed or act occasioning death. The case rests entirely upon circumstantial evidence; and it is important in the outset that we have clear notions of the nature of circumstantial evidence. Much is said in our books of this kind of evidence; and counsel usually comment largely upon it, for the purpose of showing the reliance that may be placed upon it, or the great danger there may be in trusting to it.

Gentlemen: There is nothing strange in this species of evidence. It rests upon sound principles, founded in reason; its principles can be comprehended by all men of ordinary experience, and who are capable of reasoning. Eminent judges have long since established a variety of rules, touching the use to be made of circumstantial evidence in criminal cases, designed and well calculated to prevent erroneous conclusions. Your attention has been called to these rules, and I shall again refer to them; but first let us understand clearly what is meant by *circumstantial evidence*. It is simply the proof of a fact or facts, from which another fact may be safely inferred. The fact proved is the circumstance—it is not the fact in issue; the fact inferred, or sought to be inferred, is the fact in issue, the main fact to be established. When a witness speaks directly to the main fact in issue, his evidence is said to be direct; but if he proves only a fact or facts from which the main fact in issue may be inferred, his evidence is only circumstantial, and it requires an effort of reason, founded generally upon knowledge and experience, to enable us to say whether the main fact sought to be established is a natural and necessary result of the facts proved. Thus, if one of you were to go into your field, and there see, without any mistake, the tracks of a horse, you would at once say that a horse had been there. Having been acquainted with the tracks of this animal from your boyhood, you would probably pronounce, with entire confidence, that the animal had been there and made the tracks, and yet you have seen no horse in the field. The tracks of the horse are the circumstances from which the *main fact*, the previous presence of the horse, is inferred. Now, you must be sure that you have made no mistake touching the tracks, otherwise no safe inference can be made that a horse had ever been in the field. Hence it is a rule, touching circumstantial evidence, that the circumstance or fact, from which an inference is to be made, must itself be clearly and satisfactorily proved. If several facts are relied upon, they must be consistent with each other; and if there be a succession or series of facts, called a chain of circumstances, they must have a natural connection; no link in the chain must

be lost or broken, else we cannot say that it would lead us to the principal fact in issue. Gentlemen: These rules are simple and easily comprehended. I shall have occasion hereafter to refer to some other precautionary rules as to this kind of evidence; keeping the principles already adverted to in view, let us approach the consideration of the case.

And first, it is proper to remark that the burden of proof is entirely upon the people, who are the prosecutors; they are to make out the entire case clearly to your satisfaction, beyond reasonable doubt. It was for them to show that Maria Hendrickson was dead; of this there is no question; that she did not die from natural causes, but by violence; and that the prisoner committed that violence and caused her death by poison.

It appears that the deceased, on the Sunday evening of the night of her death, attended a religious meeting about two miles from her father-in-law's, accompanied by her husband and other members of the family; that, upon their return, she read in the Bible, and also in a religious newspaper; that, between ten and eleven o'clock she retired to bed with the prisoner, in an upper room; and that about two o'clock in the morning the family were alarmed by the prisoner, and on going to the room she was found in the bed dead. We have these facts and a few other circumstances with which to commence our inquiry as to the cause of death, the great question in the case. A neighbor and his wife were called in, the corpse was laid out, and in the course of the day removed to her mother's, Mrs. Van Dusen's.

Doctor Swinburne and other medical men saw the body that evening; and here commences the anatomical and medical evidence. We learn from this evidence that *post mortem* examinations will generally disclose the cause of death. On that Monday evening the external appearances only, as the body lay in the coffin, were observed. Doctor Swinburne stated that he noticed the face was extremely pale; the lips of a blueish white or blueish appearance; that there was greater palor of the features than in persons dying from ordinary causes; that the blood had forsaken the skin and cellular tissues, thus presenting a clear countenance, almost transparent; that the countenance appeared calm; no distortion of features; thinks they were slightly swollen.

The next morning, Dr. Swinburne, assisted by Dr. Ingraham and the coroner (Dr. Smith), made the post mortem examination. He speaks of the settling of the blood in the posterior half of the body and in the neighborhood of the hips and chest, nearly two-thirds of the way around. He noticed extreme rigidity of the muscles, and that there was an elasticity about them, a tendency to return to a former position—not very strong. Upon opening the body, he found the lungs and heart healthy; the heart empty, except a small clot of blood in the right ventricle; the large veins, *cavas*, nearly empty; not more than two ounces of blood in them, and this was dark and fluid. He found the liver and gall bladder healthy, the latter about half full. The urinary bladder was con-

tracted to about two inches in diameter, and was entirely empty. The womb was enlarged; it was indurated or hardened, and slightly ulcerated about the mouth; slight adhesion of the womb to the intestines and also to the rectum. The ovaries were enlarged and not in their natural position, and in one of them there was a small clot of blood that he thinks had been there a year or more. The spleen and pancreas were healthy. On examining the brain, he found the *dura mater* adherent considerably to the skull; the small veins full; the veins of the brain were full of fluid blood; there was slight opacity over about two inches of the arachnoid membrane, near the top of the skull, and directly under this opaque portion there was an adhesion to the *pia mater*; these three membranes have been described to you; the large sinuses or veins of the brain were empty, the small veins not congested; they had blood in them but not more than natural; the brain was healthy. He next discovered a bruise upon the inner part of the lower lip, of a black and blue appearance, as large as a six or ten-cent piece; in this ecchymosis or bruise was a cut about one-fourth of an inch in length; this injury was made, as he thinks from the appearances, before death. The tongue was slightly swollen and very white. He examined the entire base of the skull, and also the brain, to the spinal chord, to the second vertebra of the neck; they were all healthy.

The external surface of the stomach and intestines was slightly congested. He describes particularly the coats of the stomach and their offices, and says the stomach was contracted to about two inches diameter; that a healthy natural stomach is from five to eight inches in diameter at the largest point (speaking of an empty stomach); the mucus coat was very much corrugated, that is, wrinkled up, turned up into folds; it was also congested, that is, the small vessels were filled, so as to make the surface very red; it was covered with a lining of red matter. Found nothing more in the stomach except two small pieces of matter like cheese, not larger than one-fourth of a pea. The whole quantity of viscid mucus did not exceed two ounces; the stomach was much thicker than in a natural state.

In the duodenum the mucus coat was more congested than in the stomach, and redder in appearance; less corrugated than in the stomach; smaller than natural; there was no fecal matter in it. The bowels were no further opened at this time; they appeared healthy.

The next Sunday, the 13th, a further examination was had, and the remainder of the intestines, except about six inches of the rectum, were removed, and some other portions. The small intestines were entirely empty of all fecal matter, and were much contracted. There was some fecal matter below the *ileo-sigmoid* valve; that which was first found was thin and watery; further on the feces became hard, indicating a previous costive condition. Seeds of different kinds were found, &c. So far as organic disease was concerned, the doctor expresses the opinion that all

the organs, except the womb, were healthy, and that the cause of death, if anywhere, was in the stomach and bowels. He then expresses a confident opinion that death was caused by an active poison. He also expresses the opinion, with the like confidence, that she vomited violently, and that vomiting or the effort to vomit continued until exhaustion preceding death. He gives it as his opinion that the poison was *aconite*.

I have referred thus particularly to the morbid appearances, as described, because they form the facts or basis upon which the professional witnesses found their opinion. Doctors Ingraham and Smith, the coroner, concur substantially with Dr. Swinburne as to the morbid appearances, except that Dr. Smith did not discover what he called inflammation or congestion in the stomach. He thinks she must have vomited, or at least made the effort to vomit. These witnesses might have been called and simply stated that they made an examination, and then have given an opinion as to the cause of death. But the proper course was the one that has been pursued, namely, giving a careful description of all the morbid appearances, so that other anatomists and medical witnesses might, from the description of the morbid appearances, be called and allowed to give their opinions as to the cause of death. Perhaps they would attribute the death to some other cause; they might be able to point out some natural cause of death, or at least give it as their opinion that the morbid appearances did not furnish to their minds sufficient evidence that death was caused by poison.

Dr. Salisbury has been examined as a chemist and physician. The stomach, bowels and other portions were delivered to him. He resorted to several tests for the purpose of obtaining poison, and the kind of poison, if any. From the acid tests, which have been particularly described, he expresses the opinion that the result indicated the presence of *aconite*. He then made an analysis of the remaining portions of the stomach, bowels and other portions, for the purpose of detecting the presence of *aconite*. He divided the materials into two parts, and adopted two processes, the one designed to obtain the entire principle of *aconite* in case it is a volatile substance, and the other to obtain it in case it is a solid. He described his processes. He united the substances obtained from each, and he expresses the opinion that he obtained *aconitine*. He judges from the taste, and from the effects produced upon a cat to which he gave the matter obtained. By one of his processes he obtained a precipitate, which he thinks was the *aconitine*. He has made many experiments with the tincture of *aconite* obtained from the druggists upon cats and dogs, and has observed the symptoms, and then made post mortem examinations. It is not necessary that I should state the results. His tests, analysis and experiments, and the morbid appearances of the animals killed, have been fully stated, that the opinions of other chemists and medical men might be taken upon them. This was the proper course. The evidence of Dr. Salisbury is very important.

If his opinion is well founded, that he obtained by his analysis aconite, it places probably beyond all reasonable doubt the *cause of death*. The question would however still remain, who administered the poison?

Gentlemen: I have thus briefly referred to the principal medical and chemical evidence on the part of the people as to the cause of death. It is, unquestionably, the most important evidence in the case on the part of the prosecution; and it is for you to form your conclusions from it, taken in connection with the evidence adduced by the defence.

Doctor Staats was called as a witness for the defence. After stating that he had heard the description given by Dr. Swinburne of the morbid appearances, he states that the description of these appearances is not satisfactory to him that the deceased came to her death from an irritant poison or from any poison, and that he could see no reason why she vomited; that she might have vomited, but the description of the morbid appearances was no evidence of it; that he never knew vomiting, so as to expel the contents of the stomach and small intestines, without purging, unless there was a mechanical obstruction, as *hernia*, &c., in the lower bowels. He describes the different positions of the bowels and the offices they perform. He also says that he should expect vomiting in all cases of an irritant poison, if the dose was large enough to kill; and that he should expect the stomach to be contracted and inflamed when it had been emptied by an irritant poison. He expresses the opinion that there was inflammation and contraction in the stomach of the deceased, and says that these are two of the prominent evidences of vomiting, but that he has no evidence that she did vomit.

He does not attribute the morbid appearances to any particular cause; but he should expect some of them from an irritant poison, and that some of them are opposed to the hypothesis of an irritant poison; that he has no opinion as to what produced the morbid appearances. He mentions several diseases which might produce some of the appearances in cases of sudden death. He does not undertake to refer her death to any particular cause, and has no opinion as to the cause of death.

Professor Reid was produced as a chemist. He stated that he should place no reliance upon the tests with the three acids, resorted to by Dr. Salisbury for the purpose of obtaining colors. He states experiments made by himself, and repeats that he should place no reliance upon Dr. Salisbury's tests. As to the analysis, he gives the opinion that in neither of the processes could he be positive that he had discovered aconitine. He says that taste is of a very uncertain nature, affecting different individuals differently; that he should not like to trust to his own taste alone. He criticises Dr. Salisbury's first process; the one by distillation. He expresses no opinion as to the second process, but suggests other precautions. As I understand, no complaint is

made by Professor Reid or Dr. Emmons of the process of Dr. Salisbury, by which he Dr. S. obtained the precipitate.

Dr. Emmons, another witness for the defence, is of the opinion that from Dr. Salisbury's *tests*, in obtaining the colors, the presence of aconite could not be safely inferred. As to the analysis, he thinks the process by distillation objectionable, and that no result would be obtained; as aconitine is regarded as a fixed body. He has used a small quantity of the tincture of aconite for the purpose of obtaining a precipitate, and did not succeed, and he expresses the opinion that under the circumstances, the quantity must have been so small, that Dr. Salisbury could not have obtained a precipitate from the matter, stomach, &c., which would have been perceptible to the naked eye. Dr. Emmons was also examined as a medical witness, touching the marked appearances, as shown by the *post mortem* examination. He does not think we should be warranted in saying for a certainty that she vomited; that many of the appearances accompany vomiting. He is unable to reconcile all the facts in the case with vomiting. He never saw a stomach and small intestines so entirely empty. He states the appearances upon sudden deaths from a variety of causes. He expresses no opinion as to the cause of death in the present case.

It would be more satisfactory, or rather it would present the case differently, if these medical witnesses had assigned some natural cause for the death. But you will bear in mind that the prisoner is not called upon to account for the death; the burthen of proving the death and its cause, rested upon the people, and they were bound to establish them affirmatively to your entire satisfaction.

If, gentlemen, the medical and chemical evidence has satisfied you that the death was caused by poison, it will be material to ascertain who administered it, and with what intent. If you are satisfied that she vomited, I apprehend that you will have no difficulty upon the question who administered the poison. There were no evidences of her having vomited in the room. If she did vomit, it had all been removed, and it is quite clear she could not have destroyed the evidences of vomiting, had she committed suicide. Having called your attention to a portion of the medical evidence, and trusting that you will call to mind all of it, and consider it carefully, I will proceed to the moral evidence, as it has been called during the progress of the trial. The evidence of the want of affection, by the prisoner for his wife, and of the difficulties between them, has not been introduced for the purpose of establishing the *body of the offence*, but simply for the purpose of enabling you to say whether the prisoner caused the death. When a person is found dead, and we are satisfied that the death was not the result of natural causes, but that it was caused by violence, we naturally inquire who committed the violence. And we examine, with care, all the circumstances, and trace them out, with a view of detecting the author. We inquire who had a *motive* for the commission of the crime. And here let me say that this kind of evidence has no tendency to prove the commission of the crime, but simply tends to point out the criminal, after it is established that a crime has been committed by some one. If the evidence, touching the charges made against the prisoner by his wife, of his improper acts has, in the least, prejudiced

your minds against the prisoner, dismiss those prejudices at once. The prisoner is not on trial for any of these acts, but for the high crime of murder, and this class of evidence has been given with a view of ascertaining whether he had any motive for the commission of the crime. The evidence of the conduct of the prisoner that night, and subsequently, and what occurred in the room are important. All the circumstances connected with the discovery of the dead body, are to be considered, as they may throw a flood of light upon the case. There are some other portions of the evidence to which I ought to refer. Considerable time was spent in endeavoring to establish the fact that there was a light in the prisoner's room before the family were alarmed. If you are satisfied that Wendell Oliver saw a light there, the whole importance of this fact depends entirely upon the question, whether the light was there before the family were alarmed. If the light was there prior to that time, it is a fact of great importance against the prisoner. If, on the other hand, it was after the family were called, it is of no importance whatever.

Much time was consumed in endeavoring to fix the day of the week when the prisoner and Matthew were in this city, and the prisoner called at Springstead's store. I have not been able to see any importance as to the precise day; the importance there is in their evidence is, whether the prisoner called at the drug store and inquired for prussic acid; and this question is of little importance as compared with the question whether the prisoner is the person who called at Burroughs' drug store, and purchased the ounce of the tincture of aconite. If he is the person who purchased the aconite, then this fact is very important, taken in connection with the other circumstances in the case. It is for you to consider, carefully, the evidence as to identification, and if it is not clearly satisfactory, the fact that the tincture of aconite was sold to some one, should be excluded from the case. You can draw no conclusion from the circumstances, until you are satisfied the prisoner was the man.

The evidence of the ecchymosis, or bruise upon the lip, is important. In case it was not there before she retired to rest, the question is, how was it produced? Was the injury inflicted before or after death? Dr. Swinburne gives it as his opinion, that it was before death. If so, how was it occasioned? Was it caused by the prisoner in attempting to administer the poison, or did the deceased inflict it upon herself? The prisoner's mother says that the deceased complained on Saturday or Sunday of a sore lip. Gentlemen, it is for you to say how the fact was, and what bearing it has upon the main question.

You will consider all the facts and circumstances in the case, and determine what they prove. It is proper that I call your attention to another rule relating to circumstantial evidence. The circumstantial evidence should be such as naturally and fairly results in establishing the main fact in issue; and they should be such as to exclude all other results—all other reasonable hypotheses. If they can be accounted for consistently with the innocence of the prisoner, he cannot be convicted.

Gentlemen, this case is undoubtedly one of great importance. It is alleged by the prosecution that deceased was poisoned by aconite,

which we are informed, is one of the most deadly, quick and subtle poisons known, and that it was administered to her by the prisoner.

If it is a case of poisoning, it is one of a most remarkable character ; and it is your duty to give to all the facts your closest and most serious attention. It is often difficult to detect this kind of crime, or to ascertain the cause of death ; this very difficulty should make us diligent in our search for truth ; and, when clearly satisfied of guilt, conviction should follow.

Gentlemen, before you can convict the prisoner, your minds must be clearly convinced, beyond reasonable doubt, that he is guilty. The law wants no victims. It asks for the conviction of no one, until a jury is clearly satisfied, from the evidence, that he is guilty. There must be no reasonable doubt of guilt resting upon the mind. If the mind has reasonable doubts, it is not convinced. I do not mean fanciful, capricious doubts, but reasonable doubts, arising from the evidence after it ~~is~~ has been permitted to have its legitimate effect upon the mind. If such reasonable doubts exist, the prisoner is entitled to their benefit, and they will work out his acquittal. But, gentlemen, if the evidence satisfies your minds, beyond all reasonable doubts, that the prisoner is guilty, it is your solemn, sworn duty to say so by your verdict. Whatever may be the consequences, you and I have no right to falter or tremble in the faithful discharge of our duties. We are not responsible for the consequences. If convicted, the prisoner passes from your hands into the charge of the law, and you go to your homes and I to mine.

Go to your room, gentlemen ; weigh and consider all the evidence calmly, faithfully, deliberately, and then come into court and pronounce the result, by your verdict.

The jury retired at the close of the charge and were in deliberation until Thursday evening, when they returned a verdict of GUILTY.

MR. WHEATON, prisoner's counsel, endeavored to procure a suspension of sentence until morning, to enable him to present a bill of exceptions to the court. But the court, not deeming it necessary, either to protect the rights of the prisoner or to promote the ends of justice, refused to grant the delay asked, and proceeded to pronounce

THE SENTENCE.

Judge MARVIN : Hendrickson, stand up. You have been convicted of the crime of murdering Maria Hendrickson, your wife, on the night of the 6th of March last. Have you anything to say why the sentence of the law should not be pronounced ?

HENDRICKSON (in a firm tone) : I am not guilty.

Judge MARVIN : If you have nothing further to say, it becomes our painful duty to proceed. You say you are not guilty. Three weeks have been consumed by an intelligent and impartial jury, empannelled for the purpose of answering that question and that question alone. They have patiently listened to the volume of evidence which has been spread before them. They have heard the arguments of the able counsel in your behalf. They have carefully and deliberately weighed and considered the facts which have been presented to their minds. They have come into court,

and, under the solemnity of their oaths, and in obedience to the duty which the law and the Author of their being has imposed *re* upon them, they all say you are guilty.

Hendrickson! It is not given to mortal man to look into the thoughts and the hearts of his fellow men. The Almighty has not placed in man a window, so that we may look in upon his thoughts and read his heart. Therefore we are unable to speak with unerring certainty of "hidden things." That power and that knowledge rests with and belongs to God alone; and He alone, beside yourself, *knows* whether you are or are not guilty. But acting upon those lights and principles with which reason, experience and knowledge, and all the attributes conferred upon us by our beneficent Maker, have endowed us, we are enabled to trace out and follow your deeds, though committed in darkness—we are enabled to look in upon that awful scene—to gaze upon the transactions of that night when the wife of your bosom breathed her last—we are able to penetrate the veil, and to witness enough to carry conviction to our minds and the minds of the jury (in whose verdict the court concur);—by these lights we are enabled to trace out your course, to mark, step by step, your deeds, and to decide that your wife came to her death by violence from him who had sworn at the altar to love, cherish and protect her through life. Yes, we are able, by these lights, to say with certainty, that you, unhappy man, did this fearful deed. If, in so pronouncing, we have committed an error, it is a fatal error to you. But we have studiously endeavored—yes, we have anxiously prayed—that we might not commit the fatal error.

Hendrickson! The jury have considered your case with deep solicitude. Your zealous and able counsel have not, for three weeks, sought natural repose before considering the power, force and effect of every syllable of evidence adduced through the day, nor without endeavoring to anticipate and to prepare for that which might be adduced on the morrow. The court has been solicitous to commit no error, and trusts that it has not, during the prosecution of this protracted trial. If, however, it has unintentionally committed such errors, they may be reviewed. But no such errors have been committed by design. I refer to these facts to show you the care and the deep interest which has been taken and felt, by counsel and court, in your case; and also to show you the interest the law takes to secure justice to all accused of crime. I trust and believe that the court has committed no error in the trial of your case. So thinking and so believing, my mind has been oppressed and appalled at the magnitude of your crime. It has been said, well and eloquently by counsel here, that the murder of which you are accused was one of great peculiarity. You employed, for the purpose of accomplishing the deed, a deadly poison—an active vegetable poison, peculiar in its character, and difficult of detection; and I greatly fear that he who communicated to you the knowledge of poisoning by aconite, communicated to you also the difficulty of its detection. Relying

upon this information, and confident that the instrument of your crime would be forever hidden from human eye, you committed the fearful deed. Empirics and quacks, though they may learn enough to do mischief, and even acquire the requisite knowledge to use as a medicine a deadly poison, without always producing fatal results, they often fail in acquiring the knowledge which enables men to avoid evil, and to know the force and power of the material which they use.

I refer thus prominently to the opinion that there are poisons which cannot be detected, because I desire to impress, not only upon you, but upon all, the fact, that as science advances—as it unfolds to the student the great storehouse of knowledge, and lets man penetrate into the very arcana of nature—that, as it advances, step by step, it enables its votaries to detect the most subtle poisons, and to trace the very footsteps of crime. Chemists are enabled now, through the wonderful developments of science—and science detects your crime—to detect almost all poisons, whether vegetable or metallic, to trace out cases of poisoning, (no matter what may be the character of the poison administered), with almost unerring certainty. And it is as dangerous to attempt murder with the most subtle vegetable poison, and as certain to be detected, as if the murder were committed with the dirk or the stiletto. Your case may have its moral effect upon community in this view of it. Community should understand that the crime of murder cannot be committed in this day of light, in any manner or by any means, without leaving the evidence of guilt; and this evidence always points out, unerringly, to the guilty individual.

It is not my wish, Hendrickson, to utter a word that shall afflict. And yet I feel called upon, in the discharge of my duty, to make some further remarks. This case is a very peculiar one. That you murdered your wife on the night of the 6th of March last, has been clearly proven. But a little more than two years prior to the commission of that deed, you led her to the altar. She was a young, lovely and confiding female. You there took her for your wife, with the promise to love, cherish and protect her through life. In a little over two years from that time—before you had reached the age of 21, and when she was but about 19—under your own father's roof—under that paternal roof where you had been born, cherished and reared—you retired to bed with your wife, at a late hour in the evening, and in from three to four hours thereafter she lay by your side a corpse. The jury say you caused her death, and the court do not doubt it. You extinguished that life by poison. You must have administered that poison by force. Science tells us that before she died, and for a considerable time, she vomited largely. All evidence of this, however, was made to disappear. But there was left a piece of evidence in the case which indicates, with a certainty almost unerring, the mode and manner of her death. I do not now allude to the scorched path which has been traced

out by science in the alimentary canal—a path scorched by the liquid poison which you administered; but I refer to the mark left upon the lip of your victim. Little, very little has been said about that mark, although it has been alluded to and commented on by counsel, and very properly. To my mind, sir, it has been the strongest piece of evidence in the case; I will not say strongest, because this might appear to be casting some doubt upon the medical testimony which has been adduced. But it is, to my mind, overwhelming. Science can tell us whether such a wound occurred before or after death. Science, from the indications apparent, says that it occurred before death. That wound was as large as a six or ten cent piece, and had within it a cut a quarter of an inch in length. What explanation has been given in relation to it? Your aged mother—who appeared in court, and in your hour of adversity sat by your side, as mothers will, though all the world beside forsake their children—your aged mother says that Maria complained, on the day preceding her death, of a sore lip. Whether this be so or not, it is not for us to say. Charity requires, perhaps, that we should believe her,—at least, that your mother believed what she testified. We know, however, without the aid of science, the consequences of such an injury. It produces excessive pain in a living subject. If there had been such a wound on the lip on the day preceding her death, every member of the family would have known it. How was that wound produced—how caused? This was a terrible question for you to answer. It has been answered by the jury. It can only be answered on the hypothesis that you inflicted this injury by forcing the fatal liquid into her mouth before death. I refer to this, not for the purpose of bringing before your mind the fearful scene of that terrible night, but for the purpose of inculcating the truthful moral, that “murder will out;” than man cannot shed the blood of his fellow man without leaving traces by which his fellow men may detect the crime.

I will not attempt to paint the scene in that room that night. I hope that no mortal eye saw it or knew aught of it except yourself and that frail being whom you violently sent into another world—whose spirit took its flight at your command, uncalled and unbidden by its Maker.

Hendrickson! This case has been a marvel in other respects. You have taken your seat daily, by the side of your counsel, for more than three weeks. Your aged father has also been present, actively and devotedly engaged in endeavoring to save the life of his erring son. Your venerable mother, stricken in years and bowed down with sorrow, and your sisters, devoted and affectionate, have also been here through the entire of this protracted trial. A crowded audience have watched its progress with eager interest; and yet you, thus situated and thus surrounded, have been, apparently, the most unconcerned one within these walls. From this, perhaps, no unfavorable inference should be drawn. Even now, when the jury have pronounced you guilty, you stand

here in court but little moved or affected. This, to me, is a painful scene. You have but just reached the years of manhood. You have but just entered on the career of life. Life is, undoubtedly, in the language of your eloquent counsel, dear to you, and yet you appear here in court, before the jury which has pronounced you guilty of murder, unmoved, unaffected, and apparently more collected than any one of those who are looking upon this solemn scene! To what are we to attribute this? We know that men can meet death on the field of battle, unflinchingly, when they believe that the cause in which they are periling their lives is holy and just; but few men can, unmoved, meet the fate or pass the ordeal through which you are passing, with the apparent unconcern which you exhibit. This, to me, is painful. It is a painful and melancholy exhibition of human nature.

During the progress of this trial, much of your previous character has been exhibited. This was not done thoughtlessly or from an improper motive. It was legitimate and necessary. So much of evil was exhibited in that character, that I apprehended the jury might, unconsciously, become prejudiced thereby, and make an improper use of that testimony. I therefore felt called upon to explain to the jury, that that evidence should have no bearing in explaining the body of the offence. It was only designed to show the probable motives which led you to the contemplation of the crime. Your career has been one upon which it is not my province to comment. Suffice it to say, that he who commences to tread the path of vice in early youth, is in danger of meeting speedy ignominy in prison or on the gallows. These are the rewards of vice; but it occurs to but few to receive this reward, and to be arrested in their career of criminal practices at so early a period of life as yourself.

Hendrickson! We are about to fix the period of your existence on earth. In doing so, this court exercises a great power—the highest power which can be exercised on earth. [Here one of the audience was seized with a fit, and was carried out the room in convulsions.] In fixing the period of your life, we are exercising a power which, in the ordinary course of nature, is only exercised by God himself, who gave life, and whose right it is to take it away. In exercising this power, however, we speak as frail individuals—as erring mortals; but we speak by command of three millions of people. They, in the capacity of a civil government, say that, in accordance with the law given by the Almighty, “Whoso sheddeth man’s blood, by man shall his blood be shed.” It is, then, not as individuals, but as agents for and in accordance with the will and command of three millions of people, that we are about to exercise this power. It is their mandate that we fix the period of your life—to say to you that you are not fit to live with your fellow men. Having taken the life of the wife of your bosom, society owes you no longer its protection. You have but a few days to live, and I trust that those few days may be well employed. The lesson was taught by Christ on

the Cross, that it is never too late to repent and to sue for mercy.

Hendrickson! I recommend to you—I urge you by all the considerations which should occur to you, possessor of an immortal soul—to spend your few remaining days in reconciling yourself with that Being who gave you that life which is soon to be surrendered back into the hands of its Author. When taken back to your cell, devote your leisure hours to reading, to reflection and to prayer. Oh! I greatly fear, sir, that you have not always prayed. There is, in my solemn judgment—although I have never made any profession of peculiar piety—I have ever believed since I have grown to man's estate, and reflected on the nature of mind and reason, great efficacy in prayer. If the mother teaches her child to repeat the beautiful prayers of infancy, and if the child continues this habit of appealing to God for guidance in this vale of tears, it will leave a sacred impress upon him; and if he shall pass on to riper years, it will make him a wiser and better man. Oh! I fear that you, unfortunate young man, have neglected to pray. Commence now, when you leave this room, this neglected duty. Ask forgiveness of the Author of your being. He can, and is willing, to forgive the greatest sinner.

You ought not, *Hendrickson*, encourage the idea—nor should your counsel; nor will they, if, as I doubt not, they do their duty—you ought not to encourage the idea that you may escape. You ought to make up your mind now, that your crime will cause an early termination of your career. Better prepare your mind to meet your doom; for, unless there has been some legal error committed by the Court during the progress of this trial, your days will soon end, under the sentence which we are about to pronounce. You ought not to expect a pardon. In your case, *Hendrickson*, the Executive will never pardon. It is best that you should understand this now. No Governor, in your case, will interpose his pardon. You should, then, prepare for death.

I have extended these remarks much farther than I had designed. Indeed, I have always been brief on previous occasions of this character. But this case has been so peculiar, and the circumstances attending it so peculiar, that I have been led into these extended remarks almost unconsciously. My design, so far as you are concerned, and my wish was, that you might derive some benefit from what might be said upon this, to you, most solemn occasion. Whether or not you will receive this benefit, it is for you to say. You have no enemies in the court or jury. No; but men, determined to do their duty, however painful it may be. They pity you, and they could weep with you, if, thereby, they could do you good.

We have consulted together, and have fixed, as the period of your existence on earth, the 26th day of August—seven weeks from to-morrow. And we proceed now to pronounce on you the sentence of the law—that, on FRIDAY, the 26th of AUGUST NEXT, between the hours of 10 and 3, within the walls of the prison of the county, you be hung by the neck until you are DEAD.

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